

These proposals are for final approval by the Task Force. Highlighting is used to show material that has been added or revised since July 11. The sections have also been renumbered, without highlighting, back to Title 4.

R4-29-101. Definitions

~~The definitions in A.R.S. § 32-2301 et seq. apply to this Chapter. Additionally, in~~ In addition to the definitions provided in A.R.S. § 32-2301, the following terms apply to this Chapter:

“Administratively complete” means an application contains all components required by statute or this Chapter to be submitted to the ~~Commission~~ OPM to enable the ~~Commission~~ OPM to determine whether to grant a license or approval.

“Advertisement” means a written or oral notice, including a business card, website, or telephone directory listing, which is intended, directly or indirectly, to induce a person to enter into an agreement for pest management services.

“Applicant” means:

~~An individual requesting an initial or renewal applicator, temporary qualifying party, or qualifying party license;~~

~~One of the following if requesting an initial or renewal business license:~~

~~An individual, for a sole proprietorship;~~

~~An officer, for a corporation;~~

~~The managing or general partner, for a partnership or limited liability partnership;~~

~~The manager or two members, for a limited liability company or professional liability company; or~~

~~A designated agent of a state agency or political subdivision or appointed or elected individual or body, an appointed or elected individual, or a member of an appointed or elected body; or~~

~~An individual or entity requesting approval of a continuing education course.~~

“Applicator” means an individual ~~licensed by the Commission as qualified to provide~~ who provides pest management services ~~when working under both a qualifying party and business license.~~ Applicator does not include a laborer.

“Applicator certification” means a certified applicator license.

~~“Before construction treatment,” as used in the Commission’s statutes, means pretreatment.~~

“Broadening” means to add another category of work to an existing license certification.

~~“Continuing education” means a planned course or program that the Commission approves under R4-29-216.~~

“Certified applicator” means an individual who is licensed by the OPM to provide pest management services, including a QA.

“CEU” means continuing education unit.

“Continuing education unit” means ~~60~~ 50 minutes of participation in continuing education.

“Control” ~~means or~~ “manage” means, with respect to pests, to exterminate, eradicate, destroy, kill, repel, attract, sterilize, mitigate, remove, or a combination of these activities.

~~“De minimis violation” has the same meaning as prescribed in A.R.S. § 32-2301 and means an act or omission by a licensee for which the Commission provides an opportunity to correct the act or omission informally rather than filing a complaint against the licensee.~~

“Department” means the Arizona Department of Agriculture.

“Disassociate” means to die, become ill ~~or~~ disabled, resign, retire, be ill or take leave for more than 14 days, be terminated, or be called to active military duty.

~~“During construction treatment,” as used in the Commission’s statutes, means new construction treatment.~~

“Entire structure” means all critical areas as defined in this Chapter and as specified on product labeling for both the interior and exterior of a structure.

“EPA” means the U.S. Environmental Protection Agency.

~~“Final grade Final grade treatment” means to establish establishment of a complete vertical barriers barrier at the exterior of foundation walls in stem wall stem wall or monolithic construction or at the exterior of grade beams in monolithic construction.~~

“Fog or fogging” means applying a pesticide by a flammable, aerosolizing thermal or other generator that forms particles less than 10 microns in diameter.

“Food-handling establishment” means a place, other than a private residence, in which food is received, served, stored, packaged, prepared, or processed.

“Fumigant” means a chemical substance with a vapor pressure greater than five millimeters of mercury at 25 degrees Centigrade that is used to destroy plant or animal life.

“Fumigation” means a method of pest management that completely fills an area with a fumigant to suffocate or poison pests within the area.

“Fungi” means saprophytic and parasitic organisms that lack chlorophyll such as molds, rusts, mildews, smuts, and yeast, except those on or in living people or animals or processed foods, beverages, or pharmaceuticals.

~~“Fungi inspection report” means the document authorized by A.R.S. § 32-2324.01 and prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.~~

~~“Inquiry” means a threshold investigation by the Commission to determine whether the Commission has jurisdiction in a matter and if so, the likelihood that there has been a violation of the Commission’s statutes or this Chapter or misuse of a pesticide.~~

“Health care institution” means a health care institution licensed pursuant to title 36, chapter 4 and includes doctor and dental offices.

“Label” means a written, printed, or graphic document that is approved by the EPA and on or attached to a pesticide container, the wrapper of a pesticide container, or a device.

“Labeling” means a written, printed, or graphic document that is authorized by the manufacturer or a state or federal agency to accompany a pesticide or device, or is referred to on the label or in literature accompanying the pesticide or device.

~~“Late” means a document required to be submitted to the Commission is post marked after the date the document is due or is not received by the Commission.~~

~~“Liability insurance,” as used in A.R.S. § 32-2313, means insurance that protects the business licensee named in the insurance policy and any person working with the express or implied permission of the named business licensee, against loss from legal liability for bodily injury or property damage as a result of the named business licensee providing pest management services.~~

~~“Manner inconsistent with the label” means the use of a pesticide in a manner not permitted by the label or labeling.~~

“Laborer” means an individual who performs physical labor necessary for an applicator to provide pest management services, including drilling and trenching, but who does not handle any pesticide container that has ever been opened, identify infestations, make inspections, make inspection reports or recommendations with respect to infestations, or use any device for the purpose of eliminating, exterminating, controlling or preventing infestations, except that laborer includes an individual who assists with the use of a tarp on a structure for a fumigation performed by an applicator.

“MSDS” means material safety data sheet, which is a written communication regarding a hazardous chemical that meets the standards at 29 CFR 1910.1200(g).

~~“New-construction treatment” means a termite treatment that eomplies with standards in the Commission’s statutes and this Chapter, protects all cellulose components of a structure from subterranean termites, wood-destroying insects and is performed after a permanent concrete slab foundation is installed or after footings and supports for a raised foundation are installed installed, but before the structure or a final grade treatment is completed.~~

~~“Next business day,” as used in A.R.S. § 32-2323(G), means the first day after the 30th calendar day that is not a Saturday, Sunday, or state holiday.~~

~~“Non food area of a food handling establishment” means a lavatory, floor drain, entrance or vestibule, office, garage, mop closet, can or bottle storage, or garbage, locker, machine, or boiler room.~~

~~“Of employment,” as used in A.R.S. § 32-2312(E), means the date on which an employee of a business licensee first applies a pesticide within the scope of employment by the business licensee.~~

“OPM” means the Office of Pest Management.

~~“Other equivalent item,” as used in A.R.S. § 32-2313(H) regarding financial responsibility, means an irrevocable and unconditional letter of credit, from an Arizona chartered or federally chartered financial institution, that is filed with the Commission.~~

~~“Party” has the same meaning as prescribed in A.R.S. § 41-1001.~~

~~“Person” means an individual, sole proprietorship, corporation, limited liability corporation, partnership, association, governmental subdivision or unit of a governmental subdivision, public or private organization, or governmental agency.~~

~~“Pest” means a vertebrate or invertebrate insect, bird, mammal, or other animal or organism, or a weed or plant pathogen that is in an undesirable location.~~

~~“Pesticide,” as defined in A.R.S. § 32-2301, includes an insecticide, fungicide, rodenticide, termiticide, fumigant, larvaicide, larvicide, piscicide, adulticide, herbicide, nematocide, avicide, or molluscicide.~~

~~“Pest management services” means the tasks that comprise the business of structural pest control or structural pest control as defined in A.R.S. § 32-2301 identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations, making written or oral inspection reports or recommendations with respect to infestations, and the application of pesticides or the use of devices not exempt by section 32-2304, subsection B, paragraph 18, for the purpose of eliminating, exterminating, controlling or preventing infestations.~~

~~“Post-construction treatment” means a treatment that complies with standards in the Commission’s statutes and this Chapter to control subterranean termites or other wood-destroying insects in an existing structure, and is structure performed after all soil disturbance associated with construction is complete and after an applicator has completed an inspection of the structure and a treatment proposal under A.R.S. § 32-2323(A) and (B).~~

~~“Practical experience,” as used in A.R.S. § 32-2314, means field work, research, training, teaching, or supervision relevant to pest management services regardless of whether compensation is received, and coursework as required by the Commission’s statutes.~~

~~“Pretreatment” means a termite treatment that complies with standards in the Commission’s statutes and this Chapter, protects all cellulose components of a structure from subterranean termites, is performed before a permanent concrete slab foundation is installed or in conjunction with establishing footings and supports for a raised foundation, and establishes thorough and complete horizontal and vertical treated barriers.~~

~~“Primary service,” as used in A.R.S. § 32-2311(A)(6)(e) 32-2317(B)(3), means applying an herbicide as the only or predominant service under a verbal or written contract to maintain a property.~~

~~“Prior to construction,” as used in the Commission’s statutes, means pretreatment.~~

~~“Prior violation of the same type” means failure to comply with a statute or rule regarding use of a pesticide, failure to comply with a statute or rule not regarding the use of a pesticide, failure to comply with a Commission order, or engaging in unlicensed activity, for which disciplinary action was taken within the five years preceding similar conduct for which current disciplinary action is sought.~~

~~“Project” means an individual address or a privately owned or individually owned dwelling.~~

~~“Public liability,” as used in A.R.S. § 32-2313, means protection against legal liability for the death, injury, or disability of any human being.~~

“QA” means certified qualified applicator.

“QP” means qualifying party.

“Qualified applicator certification” means a certified qualified applicator license.

~~“Repeated de minimis violations,” as used in A.R.S. § 32-2321, means at least three similar violations of statute or rule by the same licensee within five years.~~

“Service container” means a receptacle, other than the originally labeled receptacle provided by the manufacturer, that is used to hold, store, or transport a pesticide concentrate or use-dilution preparation.

“Service vehicle” means a motor vehicle, including a trailer attached to the motor vehicle, used regularly to transport ~~a licensee~~ an applicator and equipment or pesticides used to provide pest management services.

“Signal word” means a word printed on a label that indicates the toxicity level of the pesticide in the container to which the label is affixed.

“Special Local Need registration” means an authorization from the ~~Arizona~~ Department of ~~Agriculture~~ to use a pesticide, which meets an Arizona-specific need, in Arizona according to the terms of the registration.

“Specimen label” means a label other than the label attached to a pesticide container that contains the same information as the ~~label attached to the pesticide container~~ labeling.

~~“Sterilant,” as used in A.R.S. § 32-2311(A)(6)(b), means a product that may prevent vegetation growth for 12 or more months.~~

“Structure” means all parts of a building, whether vacant or occupied, in all stages of construction.

“Subterranean termites” means the several species of termites that usually maintain contact with the soil, including those in the families Rhinotermitidae and Termitidae.

“Supplemental wood-destroying insect inspection” means a re-examination made by an applicator of the business licensee that conducted a previous wood-destroying insect inspection and within 30 days of the previous examination to determine whether corrective treatment has been performed or conditions conducive to wood-destroying insects have been corrected.

“Tag” means a written document that is required under this Chapter to be posted conspicuously at a pretreatment or new-construction treatment site.

“TARF” means termite action report form.

~~“Temporary qualifying party” means an individual who is licensed by the Commission under R4-29-208 for a limited time to ensure the training, supervision, and equipping of a business licensee’s applicators after the business licensee’s qualifying party disassociates from the business.~~

“Termiticide” means a chemical registered by the EPA and the ~~Arizona~~ Department of ~~Agriculture~~ and used for control of termites.

“Water-retention basin” means an area to temporarily hold water run-off until the water dissipates.

“WDIIR” means wood-destroying insect inspection report, which is a written report on a form approved by the ~~Commission~~ OPM that is prepared in connection with the sale or refinancing of real property regardless of whether the report is used as part of the sale or refinancing.

~~“Web site” means the Commission’s Internet site at www.sb.state.az.us or a subsequent uniform resource locator.~~

“Wood-destroying insect inspection” means an inspection for the presence or absence of wood-destroying insects.

R4-29-102. License Categories and Certification Categories; Scope of Work

For the purpose of this Chapter and A.R.S. § 32-2301 et seq., license categories and the scope of work for each category are as follows:

- ~~1. Category B1 (General pest and public health) is limited to controlling general terrestrial vertebrate and invertebrate pests in or about a residential or other structure, public health pests, and pests not included in another license category but does not include pests in forests, aquatic food production, or agricultural plant areas.~~
- ~~2. Category B2 (Wood-destroying insect control) is limited to controlling wood-destroying insects in or about a structure by a means other than use of a fumigant.~~

- ~~3. Category B3 (Weed and right of way control) is limited to controlling terrestrial weeds in all areas other than a forest or agricultural plant or aquatic area.~~
- ~~4. Category B4 (Fumigation) is limited to using fumigants.~~
- ~~5. Category B5 (Turf and ornamental horticulture) is limited to controlling plant and turf pests, diseases, or viruses and using plant growth regulators on ornamental horticultural plants and turf in all areas other than a forest or agricultural plant area and except by means of a fumigant.~~
- ~~6. Category B7 (Fungi inspection) is limited to inspecting a structure for suspected fungi and completing a Commission approved structural fungi inspection report.~~
- ~~7. Category B8 (Wood destroying insect inspection) is limited to inspecting a structure for the items listed in R4 29 303 and reporting the results of the inspection on a WDHR.~~
- ~~8. Category B9 (Aquatic) is limited to controlling pests, including weeds, in an aquatic area other than a water retention basin or agricultural or forest area, and except for mosquito control.~~

The name and scope of each certification category are as follows:

1. Industrial and institutional: pest management in or about a residential or other structure excluding anti-microbial pest management, fungi inspection, or pest management covered by another certification category.
2. Wood-destroying organisms.
 - a. Wood-destroying organism management: inspecting for the presence or absence of wood-destroying organisms and managing wood-destroying organisms in or about a residential or other structure by a means other than use of a fumigant.
 - b. Wood-destroying insect inspection: inspecting for the presence or absence of wood-destroying insects only.
 - c. Wood preservation: application of pesticides directly to structural components of wood or wood products, which are not part of an existing structure normally habitable by persons, to prevent or manage wood degradation by wood-destroying organisms including fungi and bacteria.
3. Ornamental and turf: pest management, including weeds, in the maintenance of ornamental trees, shrubs, flowers, and turf by a means other than use of a fumigant.
4. Right-of-way: pest management of invertebrate pests, including weeds, in the maintenance of public roads, electric powerlines, pipelines, railway rights-of-way or other similar areas.
5. Aquatic: pest management, including weeds, in standing or running water.
6. Fumigation: pest management using fumigants.

~~R4-29-103. — Complaint Information~~
REPEAL

~~R4-29-104. — Providing Information to the Commission~~
REPEAL

~~R4-29-105, R4-29-103. Fees; Charges; Exemption~~

- ~~A. Under the authority provided by A.R.S. § 32-2317, the Acting Director establishes and shall collect the following fees: A person shall pay the following application and renewal fees for licensure, certification, and registration:~~
 - ~~1. For an applicator:~~
 - ~~a. License application, \$30; Applicator certification, \$100;~~
 - ~~b. License broadening application, \$10; Applicator certification broadening application, \$50;~~
 - ~~c. License renewal application, active or inactive status, online, \$20; QA certification, \$200; and~~
 - ~~d. License renewal application, active or inactive status, on paper, \$25; and QA certification broadening application, \$150.~~
 - ~~e. Duplicate license, \$10.~~

2. For a qualifying party:
 - a. ~~License application, \$150; Registration, \$100;~~
 - b. ~~License broadening application, \$50; Registration broadening application, \$50; and~~
 - c. ~~License renewal during active status, online, \$120;~~
 - d. ~~License renewal during active status, on paper, \$125;~~
 - e. ~~License renewal during inactive status, online, \$20;~~
 - f. ~~License renewal during inactive status, on paper, \$25;~~
 - g. ~~Change from inactive to active status, \$125;~~
 - ~~h-c.~~ Temporary qualifying party license application, \$25; registration, \$100.
 - ~~i.~~ Temporary qualifying party license renewal application, \$25; and
 - ~~j.~~ Duplicate license, \$10.
3. For a business:
 - a. ~~License application, \$75; License, \$300;~~
 - b. ~~License renewal application, online, \$70;~~
 - c. ~~License renewal application, on paper, \$75;~~
 - ~~d-b.~~ Branch office registration application, \$35; registration, \$100; and
 - e. ~~Branch office registration renewal application, \$35; and~~
 - f. ~~Duplicate license, \$10.~~
4. Branch supervisor registration, \$50.
5. Applicator registration, \$25 per applicator.
- B.** In addition to the fees listed in subsection (A), a person shall pay a \$10 handling fee for each application or renewal form not submitted electronically.
- B.C.** Under the authority provided by A.R.S. § 32-2304(A)(13), the Acting Director establishes and shall collect a penalty that is double the license renewal fee. A person shall pay a late fee equal to the renewal fee for any license, certificate, or registration that is not renewed timely. If a business license remains expired for more than 30 days, to renew the license, a person shall also pay an additional late fee of \$15 per month that the license remains expired, not to exceed \$165. The penalty is Late fees are in addition to the license renewal fee.
- D.** A business licensee shall pay the following TARP fees:
 1. Electronic submissions, \$4;
 2. Electronic final grade treatment TARP submissions, \$0;
 3. Electronic TARP submissions for a pretreatment or new-construction treatment of an addition that abuts the slab of an originally treated structure, \$0, if the business licensee:
 - a. Performed the pretreatment or new-construction treatment of the main structure,
 - b. Filed a TARP regarding the pretreatment or new-construction treatment,
 - c. Has the structure under warranty, and
 - d. Treats the abutting addition under the terms of the site warranty;
 4. All paper submissions, \$8; and
 5. Late fee equal to the original TARP fee for any TARP submission more than 30 days after the due date.
- C.E.** If the Acting Director OPM administers the examination required under A.R.S. § 32-2312(C) or 32-2314(C), the Acting Director shall charge \$50 to cover the cost of providing this service. A certification examination, an applicant shall pay \$50 to take the examination. If the Acting Director Department enters into a contract with an examination service or testing vendor administers a certification examination, an applicant shall pay to the examination service or testing vendor the examination cost established in the vendor's contract with the OPM.
- D.** Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a fee of \$8 for each TARP required to be submitted under this Chapter except there is no fee to submit timely a TARP pertaining to a final grade treatment.
- E.** Under the authority provided by A.R.S. § 32-2304(E), the Acting Director establishes and shall collect a penalty of \$8 for a TARP that is filed within 180 days after it is due and a penalty of \$16 for

a TAREF that is filed more than 180 days after it is due. The penalty is in addition to the TAREF filing fee under subsection (D). The penalty in this subsection applies to an untimely TAREF pertaining to a final grade treatment.

- ~~F. Any payment to the Office may be made by cash, credit or debit card, money order, or cashier's, certified, business, or personal check. If payment is made by money order or check, the payer shall make the money order or check payable to the Office of Pest Management. If payment is Payments made by business or personal check, payment is not credited until the check clears the bank. The Office does not prorate fees. Fees are not refundable unless A.R.S. § 41-1077 applies. The Office may refuse all forms of payment other than cash, cashier's check, or money order from a person that issued an insufficient funds payment to the Office.~~
- ~~G. An employee of the Office or the Arizona Department of Agriculture who applies for or holds a Office issued license is exempt from the fees in subsections (A) through (C).~~
- F. OPM employees are exempt from the applicator and examination fees listed in this Section.
- G. An applicant who makes a payment for a fee due under this Section that is rejected by a financial institution will be subject to all of the following:
 - 1. The OPM shall void any approval of the application or renewal.
 - 2. The applicant shall pay any financial institution fee incurred by the OPM.
 - 3. The OPM may require the applicant to pay all fees due using a method other than a personal or business check.
 - 4. An application for renewal will be considered untimely if the substitute payment is not received by the OPM by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.
- ~~H. The Acting Director shall OPM may reject an application or request for service that is submitted with the incorrect fee and not process the application or provide the service. An application for renewal will be considered untimely if the substitute payment is not received by the OPM by the original due date, and the applicant will be subject to a late fee based on the date of receipt of the substitute payment.~~
- ~~I. Notwithstanding subsections (A), (D) and (E), for services provided in fiscal year 2011-2012, the Acting Director shall collect the following fees:~~
 - ~~1. For an applicator:~~
 - ~~a. License application, \$75;~~
 - ~~b. License broadening application, \$30; and~~
 - ~~c. License renewal application, active or inactive status, \$50.~~
 - ~~2. For a qualifying party:~~
 - ~~a. License application, \$175;~~
 - ~~b. License broadening application, \$150;~~
 - ~~c. License renewal during active status, \$150;~~
 - ~~d. License renewal during inactive status, \$75;~~
 - ~~e. Change from inactive to active status, \$125;~~
 - ~~f. Temporary qualifying party license application, new or renewal, \$75.~~
 - ~~3. For a business:~~
 - ~~a. License application, \$250;~~
 - ~~b. License renewal application, \$200; and~~
 - ~~c. Branch office registration application, new or renewal, \$75.~~
 - ~~4. For a duplicate license, \$10.~~
 - ~~5. TAREF submittal:~~
 - ~~a. Electronic, \$8;~~
 - ~~b. On paper, \$15; and~~
 - ~~c. Penalty, in addition to the regular fee, for a TAREF filed more than 30 days after it is due, \$16.~~

~~J.I.~~ In addition to the fees ~~in subsection (I), the Acting Director~~ listed in this Section, the OPM may collect service charges from persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers.

~~R4-29-106.~~ R4-29-104. Joint Responsibility

- A. An applicator, qualifying party, branch supervisor, or business licensee who supervises another ~~person, whether the supervised person is licensed or unlicensed,~~ person shall ensure that the supervised person is properly trained and equipped and receives the supervision necessary for the supervised person to provide pest management services ~~competently and safely in accordance with the pesticide label and labeling, this Chapter and the OPM's statutes.~~
- B. ~~Under A.R.S. § 32-2308, an~~ An applicator, qualifying party, branch supervisor, or business licensee who supervises another ~~person, whether the supervised person is licensed or unlicensed,~~ person may be held jointly responsible for the acts or omissions of the supervised person.
- C. It is an affirmative defense to joint responsibility as described in subsection (B) if an applicator, qualifying party, branch supervisor, or business ~~licensee,~~ licensee complied with subsection (A) and can demonstrate that compliance with contemporaneously maintained records.
- D. A OP and business licensee shall comply with every provision in this Chapter regarding applicator duties and responsibilities.

~~R4-29-107.~~ R4-29-105. Licensing Time-frames

- A. Overall time-frame. The ~~Commission~~ OPM shall issue or deny a license within the overall time-frames listed in Table 1. The overall time-frame, which is the total number of days provided for both the administrative completeness and substantive review time-frames, begins when the ~~Commission~~ OPM receives an application.
- B. Administrative completeness review time-frame.
 - 1. During the administrative completeness review time-frame, the ~~Commission~~ OPM shall notify the applicant in writing whether the application is complete or incomplete. If the application is incomplete, the ~~Commission~~ OPM shall specify in the notice what information is missing. If the ~~Commission~~ OPM does not provide notice to the applicant within the administrative completeness review time-frame, the ~~Commission~~ OPM shall deem the application complete.
 - 2. An applicant with an incomplete license application shall supply the missing information within the completion request period listed in Table 1. The administrative completeness review and overall time-frames are suspended from the postmark date of the notice of missing information until the date the ~~Commission~~ OPM receives the information.
 - 3. If an applicant fails to submit the missing information before expiration of the completion request period, the ~~Commission~~ OPM shall consider the application withdrawn and close the file. An applicant whose file is closed may apply for a license by submitting a new application and application fee.
- C. Substantive review time-frame.
 - 1. The substantive review time-frame listed in Table 1 begins when an application is administratively complete or at the end of the administrative completeness review time-frame in Table 1, whichever occurs first. If the ~~Commission~~ OPM determines during the substantive review that additional information is needed, the ~~Commission~~ OPM shall send the applicant a comprehensive written request for additional information.
 - 2. Both the substantive review and overall time-frames are suspended from the date of the ~~Commission's~~ OPM's request until the date that the ~~Commission~~ OPM receives the additional information. The applicant shall submit the additional information within the additional information period listed in Table 1.
 - 3. If the applicant fails to provide the additional information within the additional information period in Table 1, the ~~Commission~~ OPM shall consider the application withdrawn and close the

application. An applicant whose file is closed may apply for a license by submitting a new application and application fee.

D. Within the overall time-frame listed in Table 1, the ~~Commission~~ OPM shall:

1. Deny a license or approval to an applicant if the ~~Commission~~ OPM determines that the applicant does not meet all the substantive criteria required by the ~~Commission's~~ OPM's statutes and this Chapter; or
2. Grant a license or approval to an applicant if the ~~Commission~~ OPM determines that the applicant meets all the substantive criteria required by the ~~Commission's~~ OPM's statutes and this Chapter.

E. If the ~~Commission~~ OPM denies a license or approval under subsection (D)(1), the ~~Commission~~ OPM shall provide a written notice of denial to the applicant that explains:

1. The reason for the denial, with citations to supporting statutes or rules;
2. The applicant's right to seek a fair hearing to challenge the denial; and
3. The time for appealing the denial.

Table 1. Time-frames (Calendar Days)

Type of License, Registration, Change or Approval License	Applicable Statute or Rule Authority	Administrative Completeness Review	Applicant Response to Completion Request	Substantive Completeness Review	Applicant Response to Additional Information	Overall Time-frame
Applicator New	A.R.S. § 32-2312 R4-29-203	30	90	100	180 <u>360</u>	130
Renewal	R4-29-207 R4-29-208	30	90	100	15	130
Broaden	R4-29-212 R4-29-210	30	90	100	180 <u>360</u>	130
Activate		30	90	100	15	130
Qualified applicator (QA)	R4-29-204	<u>30</u>	<u>90</u>	<u>100</u>	<u>360</u>	<u>130</u>
New	R4-29-208	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
Renewal	R4-29-210	<u>30</u>	<u>90</u>	<u>100</u>	<u>360</u>	<u>130</u>
Broaden						
Qualifying party (QP)	A.R.S. § 32-2314 32-2313	30	90	100	180 <u>90</u>	130
New	R4-29-204 R4-29-205	30	90	100	15	130
Renewal	R4-29-207 R4-29-208	30	90	100	90	130
Broaden	R4-29-210 R4-29-211	10	10	10	15	20
Temporary	R4-29-208 R4-29-209	10	10	100	15	110
Renew	R4-29-210 R4-29-212	30	90	100	180	130
Temporary	R4-29-208 R4-29-211	30	90	100	15	130
Broaden						
Activate						
Business New	A.R.S. § 32-2313 32-2312; R4-29-202; R4-29-208;	30	90	100	15	130
Renewal	R4-29-209 R4-29-206	30	90	100	15	130
Branch	R4-29-207	30	90	100	15	130
Office						
Name						

Change	R4-29-213 R4-29-214	30	90	100	15	130
<u>Branch Office</u>	<u>A.R.S. § 32-2314;</u> <u>R4-29-206</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
<u>Branch supervisor</u>	<u>A.R.S. § 32-2314</u>					
<u>New</u>	<u>R4-29-206</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>90</u>	<u>130</u>
<u>Renewal</u>	<u>R4-29-208</u>	<u>30</u>	<u>90</u>	<u>100</u>	<u>15</u>	<u>130</u>
Continuing Education Approval	A.R.S. § 32-2319 R4-29-216 <u>R4-29-214</u>	20	60	55	15	75

ARTICLE 2. OBTAINING, RENEWING, ACTIVATING OR INACTIVATING A LICENSE; EXAMINATION; CONTINUING EDUCATION REQUIREMENT; APPROVAL OF CONTINUING EDUCATION

ARTICLE 2. CERTIFICATION, REGISTRATION AND LICENSURE; CONTINUING EDUCATION

R4-29-201. Activities that Require a License; Exemptions; General Provisions

- ~~A. Unless exempt under A.R.S. § 32-2311, an individual who provides pest management services shall obtain an applicator license from the Commission. An applicator shall perform pest management services only on behalf of a business licensed by the Commission.~~
- ~~B. To obtain a license as a qualifying party, an individual shall also be licensed as an applicator.~~
- ~~C. A licensed business shall provide pest management services only if the licensed business employs at least one individual who holds a qualifying party license. A licensed business shall provide pest management services in a category only if the licensed business employs an individual who has an activated qualifying party or temporary qualifying party license in the category.~~
- ~~D. A licensed qualifying party or temporary qualifying party shall not qualify more than one licensed business. A licensed business may employ more than one licensed qualifying party.~~
- ~~E. An applicator or qualifying party shall provide pest management services only in the category for which the applicator or qualifying party is licensed. To provide pest management services in a new category, an applicator or qualifying party shall complete the license broadening process described in R4-29-212.~~
- ~~F. Under A.R.S. § 32-2312(D), an applicant for licensure is required to be of good moral character. The Commission shall deny a license to an applicant determined not to be of good moral character. In determining whether an applicant is of good moral character, the Commission shall consider whether the applicant:
 - ~~1. Committed an act, which, if committed by a licensee, would be grounds for disciplinary action against the licensee;~~
 - ~~2. Has been convicted of a felony or a misdemeanor; or~~
 - ~~3. Cheated on a licensing examination.~~~~
- ~~G. The holder of a license issued by the Commission shall not assign or transfer the license.~~
- ~~H. An applicator license expires on May 31 except that a new applicator license that is issued in May is valid until May 31 of the following year.~~
- ~~I. A qualifying party or business license expires on December 31 except that a new qualifying party or business license issued in December is valid until December 31 of the following year.~~
- ~~J. If a licensee files a timely and complete renewal application, the existing license does not expire until the Commission issues a notice granting or denying renewal. If the Commission denies license renewal, the existing license does not expire until all administrative appeals are exhausted.~~
- A. Business license. A person doing an activity defined as the business of pest management shall first possess a valid business license, unless the person is:
 - 1. A political subdivision;
 - 2. Acting on behalf of a business licensee or political subdivision; or
 - 3. Otherwise exempt by this Chapter or the OPM's statutes.
- B. Qualifying party registration. A business licensee or political subdivision shall only do an activity defined as the business of pest management if the business licensee or political subdivision has a registered qualifying party. The business licensee or political subdivision shall only provide pest management services in a certification category if the qualifying party is registered in that certification category.
- C. Applicator licensure.
 - 1. An individual who provides pest management services shall be a certified applicator and only provide pest management services in a certification category for which the applicator is currently

certified except as provided under subsections (C)(2) and (C)(3) or as otherwise exempt by this Chapter or **the OPM's statutes**.

2. A certified applicator desiring to work in a category for which the applicator is not certified shall become certified in the category within 90 calendar days after beginning work in that category.
3. An individual may provide pest management services on behalf of a business licensee without being a certified applicator if the individual:
 - a. Is registered as an applicator of the business licensee under R4-29-207;
 - b. Has been registered as an applicator of the business licensee for not more than 90 calendar days out of the last 365 days; and
 - c. Is supervised by a certified applicator who:
 - i. Is certified in the category for which supervision is provided;
 - ii. Provides immediate supervision when the individual performs pest management services in the wood-destroying organism management, aquatic, or fumigation category, uses a restricted use pesticide, or uses a pesticide under an experimental use permit; and
 - iii. Provides direct supervision when the individual performs pest management services not covered by subsection (C)(3)(c)(ii).
4. An individual may not provide pest management services at a school, child care facility, health care institution, or food-handling establishment unless the individual is a certified applicator in the certification category for which services are being provided.
5. An individual using an animal to assist with identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations shall be a certified applicator in the certification category for which services are being provided.

D. Applicator registration. An applicator may not provide pest management services on behalf of a business licensee or political subdivision unless the applicator is registered as an applicator of the business licensee or political subdivision pursuant to R4-29-207.

E. Exemptions. A person is not required to be licensed who:

1. Provides general information about a label or labeling, the identification or management of a pest, integrated pest management or the use of a registered pesticide, does not directly or indirectly charge for the information and does not make an on-site recommendation.
2. Performs sales work that does not include:
 - a. Identifying on-site infestations or making inspections for the purpose of identifying or attempting to identify infestations;
 - b. Making written or oral inspection reports or on-site recommendations with respect to infestations; or
 - c. The application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.
3. Is a University employee and does not provide pest management services for hire.
4. Is a certified home inspector and documents evidence of wood-destroying organisms on a home inspection, but does not prepare a wood-destroying insect inspection report, prepare a treatment proposal, make treatment estimates, bids, or recommendations, apply pesticides, or use devices.

~~R4-29-202. License Exemptions; Unlicensed Persons~~
REPEAL

~~R4-29-206. R4-29-202. Obtaining a Business License~~

A. ~~An applicant for a business license to conduct pest management services shall submit the following information to the Commission on a form obtained from the Commission OPM:~~

1. ~~About the qualifying party who will qualify the business:~~
 - a. ~~Full name;~~
 - b. ~~Physical address;~~

- e. ~~Mailing address, if different from the physical address;~~
- d. ~~Electronic mail address, if any;~~
- e. ~~Date of birth;~~
- f. ~~Social Security number;~~
- g. ~~Telephone number;~~
- h. ~~Qualifying party license number and applicator license number, if any;~~
- i. ~~License category of qualification; and~~
- j. ~~The dated signature of the qualifying party;~~
- 2.1. ~~About the business license applicant: individual submitting the application on behalf of the business:~~
 - a. ~~Full name,~~
 - b. ~~Mailing address;~~
 - c. ~~Electronic mail E-mail address, if any;~~
 - d. ~~Telephone number;~~
 - e. ~~Date of birth; Title with respect to the business; and~~
 - f. ~~Social Security number; Dated signature affirming that all information provided on the application is true and correct.~~
- 3.2. ~~About the business:~~
 - a. ~~Business name;~~
 - b. ~~Form of business organization and names of the following persons authorized to act on behalf of the business:~~
 - i. ~~Owner if a sole proprietorship;~~
 - ii. ~~Managing or general partner if a partnership;~~
 - iii. ~~President, secretary, and statutory agent~~ President and other authorized officers if a corporation;
 - iv. ~~Manager or at least two~~ All the managers or members if a limited liability company; or
 - v. ~~Designated agent of an appointed or elected person or body if the state or a political subdivision; or~~
 - vi. ~~Person authorized to make decisions for the business if any other type of business form;~~
 - c. ~~Telephone number;~~
 - d. ~~Fax number;~~
 - e. ~~Physical address;~~
 - f. ~~Mailing address, if different from physical address; and~~
 - g. E-mail address, if any; and
 - g-h. ~~Chemical storage address; and~~
- 4. ~~The business applicant's dated signature affirming that the information provided is true and correct.~~
- 3. Daytime telephone number of individuals identified under subsection (A)(2)(b); and
- 4. Name of the qualifying party.
- B. In addition to the form required under subsection (A), an applicant shall submit:
 - 1. ~~The fee specified in R4-29-105~~ R4-29-103;
 - 2. ~~A completed Business License Application Supplement that includes the following information about the pest management business:~~
 - a. ~~A description of how the qualifying party will manage the business;~~
 - b. ~~A description of how the qualifying party will supervise the pest management services provided by the business;~~
 - c. ~~A description of plans to provide training for all licensed applicators employed by the business;~~
 - d. ~~A description of how the business will comply with the financial responsibility requirements in A.R.S. § 32-2313;~~
 - 2. The proof of financial security required by A.R.S. § 32-2312;

- ~~e.3. The names of all individuals who own at least 10 percent principals of the business as defined in subsection (G);~~
- ~~f.4. The name and physical address of the statutory agent of the business; and~~
 - ~~g. If a corporation, the names of all corporate officers;~~
- 3. The following information on a completed Commission insurance certificate if the applicant will fulfill the financial responsibility requirements by purchasing liability insurance or a surety bond:
 - a. Name, address, and telephone number of the insured;
 - b. Existing business licenses held by the applicant;
 - c. Name, address, and telephone number of the insurer;
 - d. Name, address, and telephone number of the insurance producer or broker;
 - e. Number of the insurance policy or surety bond, effective and expiration dates, limits, and deductible, if any;
 - f. The categories of work covered by the insurance or bond; and
 - g. The dated signature and title of an agent of the insurer or producer or broker certifying that:
 - i. The company is authorized by the Arizona Department of Insurance to do business in Arizona;
 - ii. The insurance or bond has been issued to the insured for the period indicated;
 - iii. The insurance or bond complies with the Commission's statutes regarding coverage endorsements;
 - iv. The company will notify the Commission in writing within 30 days if the insurance or bond is cancelled, revoked, or falls below the legal limit or if the deductible exceeds \$10,000; and
 - v. The company will furnish information regarding the insurance or bond to the Commission upon request; and
- 4.5. A copy of the Articles of Incorporation, Articles of Organization, Certificate of Limited Partnership, trust, trade name certificate, partnership agreement, or other evidence of the form of business organization.
- C. ~~The Commission shall deny use of a business license name that the Commission determines is similar to an existing business name and may cause a reasonable person to confuse the two businesses. A business cannot be licensed without a registered qualifying party.~~
- D. If the ~~Commission~~ OPM determines there may be cause to deny a license to an applicant, the ~~Commission shall~~ OPM may send a written notice to the applicant specifying the date and time for requiring the applicant to appear at a ~~Commission meeting and~~ specific location, date and time to answer questions.
- E. The Commission shall issue a business license to an applicant that the Commission determines is qualified under A.R.S. § 32-2313 and this Chapter. The business license, which is valid until December 31, authorizes the licensee to operate a structural pest control business in each category in which the licensee employs a qualifying party licensed in the category. A business license expires on May 31, and is:
 - 1. Issued with an expiration in the following calendar year as an initial licensure; and
 - 2. Renewable for one or two years, depending on the renewal period selected by the applicant.
- F. A business license may not be transferred except in accordance with R4-29-209 and may not be renewed beyond the expiration of the registration for the business's qualifying party.
- G. For the purposes of this section, principal means a person who owns at least a 10 percent interest in a business. Principal includes an owner that is itself a business as well as owners of a principal.

R4-29-203. Obtaining an Applicator License Certification

- A. Application. An applicant for an applicator license certification shall submit the fee specified in R4-29-103 and the following information to the Commission on a form obtained from the Commission OPM:

1. Full name;
 2. Applicator ~~license~~ certification number, if any;
 3. ~~Physical Home~~ address;
 4. Mailing address, if different from the ~~physical home~~ address;
 5. Telephone number;
 6. ~~Electronic mail~~ E-mail address, if any;
 7. Date of birth;
 8. Social Security number;
 9. ~~A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:~~
 - a. ~~A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status;~~
 - b. ~~A copy of documents pertaining to each conviction including court orders and police, probation, and pre-sentence reports;~~
 - c. ~~A complete set of fingerprints; and~~
 - d. ~~The fee for fingerprint processing;~~
 10. ~~9.~~ A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
 11. ~~10.~~ Name of employer, if any;
 12. ~~11.~~ Employer's business license number, if applicable;
 13. ~~12.~~ Employer's telephone number, if applicable;
 14. ~~13.~~ License category Certification categories for which application is made; and
 15. ~~14.~~ The applicant's dated signature affirming that the information provided is true and correct.
- B.** ~~In addition to the form required under subsection (A), an applicant shall submit the fee specified in R4-29-105.~~
- C.** ~~Under the authority at A.R.S. § 32-2304(B)(2), if the Commission determines it is in the best interest of the state, the Commission shall require an applicant to submit a complete set of fingerprints and the fee for fingerprint processing.~~
- D.** ~~If the Commission determines that an applicant is eligible for licensure, the Commission shall notify the applicant that the applicant may schedule and take a licensing examination described under R4-29-205.~~
- B.** An applicator shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character.
- C.** Examination. An applicant shall take and pass the certification examinations as provided in R4-29-211 in order to become certified.
- D.** An applicator shall be at least 18 years of age.
- E.** ~~If the Commission OPM determines there may be cause to deny a license certification to an applicant, the Commission shall OPM may send a written notice to the applicant specifying the date and time for requiring the applicant to appear at a Commission meeting and specific location, date and time to answer questions.~~
- F.** ~~The Commission shall issue a license to an applicant who meets all of the qualifications in A.R.S. § 32-2312 and this Chapter and passes the licensing examinations. The license authorizes the applicator to provide pest management services until May 31 if the applicator is employed by a licensed business.~~
- F.** Certification. Applicator certification is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial certification,
 2. Renewable for one or two years, depending on the renewal period selected by the applicant, and
 3. Renewed for all certification categories for the same renewal period.

R4-29-204. Obtaining a Qualifying Party License Qualified Applicator Certification

- A. ~~Before applying for a qualifying party license, QA certification, an applicant shall hold an have~~ applicator license ~~for certification in each category in for which a qualifying party license is sought~~ the applicant seeks QA certification and fulfill the practical experience requirement for each category.
- B. Application. An applicant for a qualifying party license QA certification shall submit the fee specified in R4-29-103 and the following information ~~to the Commission~~ on a form obtained from the Commission OPM:
 1. Full name;
 2. ~~Applicator license number;~~ certification number, if any;
 3. ~~Qualifying party license QA certification~~ number, if any;
 4. ~~Physical~~ Home address;
 5. Mailing address, if different from the ~~physical~~ home address;
 6. Telephone number;
 7. ~~Electronic mail~~ E-mail address, if any;
 8. Date of birth;
 9. Social Security number;
 10. ~~A statement whether the applicant has ever been convicted of a felony or a misdemeanor and if the answer is yes, submit:~~
 - a. ~~A completed Criminal Conviction Supplement form that includes information regarding the charge, date, jurisdiction and disposition of conviction, and current status; and~~
 - b. ~~A copy of documents pertaining to each conviction including court orders and police, probation, and pre sentence reports;~~
 11. ~~10.~~ A statement whether the applicant has ever had a license or permit to practice pest management denied, revoked, or suspended and if the answer is yes, date, jurisdiction taking the action, nature of the action, and explanation of the circumstances;
 12. ~~11.~~ Name of employer, if any;
 13. ~~12.~~ Employer's business license number, if applicable;
 14. ~~13.~~ Employer's telephone number, if applicable;
 15. ~~14.~~ License category Certification categories for which application is made; and
 16. ~~15.~~ The applicant's dated signature affirming that the information provided is true and correct.
- C. ~~In addition to the form required under subsection (B), an applicant shall submit:~~
 1. ~~The fee specified in R4 29 105;~~
 2. ~~Evidence of the hours of practical experience required under A.R.S. § 32 2314(C)(2) in each category for which the applicant seeks licensure. Evidence that is acceptable to the Commission includes:~~
 - a. ~~A completed Verification of Practical Experience form that is signed by a business or qualifying party licensee or another person with first hand knowledge of the applicant's experience and notarized;~~
 - b. ~~Payroll records, invoices, route sheets, or calendars;~~
 - c. ~~Letters from persons with first hand knowledge of the applicant's experience; and~~
 - d. ~~An official transcript from an educational institution at which the applicant completed relevant course work;~~
 3. ~~A complete set of fingerprints; and~~
 4. ~~The fingerprint processing fee.~~
- D. ~~The Commission shall send a written notice to an applicant for a qualifying party license regarding the date and time that the applicant is to appear at a Commission meeting for an evaluation of the applicant's practical experience and to be authorized to schedule and take the licensing examination described under R4 29 205. The applicant shall appear as noticed.~~
- E. ~~The Commission shall issue an inactive license to an applicant who meets all of the qualifications in A.R.S. § 32 2314 and this Chapter and passes the licensing examination. Before working as the qualifying party of a licensed business, the licensee shall activate the license.~~

- ~~F. An active qualifying party license authorizes the licensee to qualify one licensed business until December 31. A qualifying party licensee may qualify the one licensed business in each category in which the qualifying party is licensed.~~
- ~~G. If a qualifying party applicant whose application is closed under R4-29-107(B)(3) or (C) submits a new application under subsections (B) and (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (D) unless the applicant was convicted of a felony or misdemeanor during the time between applications.~~
- C. Experience. An applicant shall possess one of the following qualifications:
1. Certification as an applicator for 24 months within the five years preceding the application in the category applied for.
 2. Certification as an applicator for 12 months within the five years preceding the application and either:
 - a. Successful completion of 12 semester hours or its equivalent within the 10 years preceding the application in pest management courses directly related to each category applied for; or
 - b. A Bachelor's degree in agricultural sciences, biological sciences, or pest management with 12 semester hours or its equivalent in pest management courses directly related to each category applied for.
 3. Twenty four months of experience in the business of pest management, in another State where licensure was not required, within the five years preceding application directly related to the category applied for.
- D. For an individual who applies for QA certification within one year of honorable separation from active military duty, the time periods "preceding the application" in subsection (C) are tolled during the term of active military duty.**
- E. A QA shall be of good moral character. A conviction for a felony or a misdemeanor involving moral turpitude may demonstrate a lack of good moral character.
- F. OPM review.
1. After notification by the OPM that the applicant is eligible for certification, the applicant may schedule and take the certification examinations described under R4-29-211.
 2. If the OPM determines there may be cause to deny certification to an applicant, the OPM may send a written notice to the applicant requiring the applicant to appear at a specific location, date and time to answer questions.
- G. Examination. An applicant shall take and pass the certification examinations as provided in R4-29-211 in order to become certified.
- H. Certification. QA certification is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial certification.
 2. Renewable for one or two years, depending on the renewal period selected by the applicant, and
 3. Renewed for all certification categories for the same renewal period.
- I. For the purposes of this section, pest management courses means courses in entomology, zoology, vertebrate management, plant pathology, agronomy, general horticulture, plant biology or botany, biochemistry, organic or inorganic chemistry, the eradication or management of weeds, toxicology, the environmental impact of pesticides, or any combination thereof.

R4-29-205. Qualifying Party Registration; Temporary Qualifying Party Registration

- A. An applicant for registration as a QP shall submit the fee specified in R4-29-103 and the following information on a form obtained from the OPM:
1. Name;
 2. QA certification number;
 3. Home address;
 4. Mailing address, if different from the home address;

5. E-mail address;
6. Date of birth;
7. Social Security number;
8. Telephone number;
9. Certification categories to be registered;
10. Name, and license number if applicable, of the business or political subdivision for which the applicant will act as the QP; and
11. Dated signature of the applicant affirming that the information provided is true and correct;
- B.** An individual may only register as a QP in categories for which the individual possesses QA certification.
- C.** A certified applicator who is the representative of a business licensee or political subdivision may register as a temporary QP if the QP has become disassociated with the business licensee or political subdivision within the last 45 days. A certified applicator may only register as a temporary QP in the categories for which both the former QP was registered and the certified applicator is certified.
- D.** An applicant for registration as a temporary QP shall submit the fee specified in R4-29-103 and:
 1. The information required in subsection (A), except subsection (A)(2);
 2. The applicant's applicator certification number;
 3. Written confirmation signed by the business licensee, political subdivision, or former QP indicating that the former QP has become disassociated with the business licensee or political subdivision; and
 4. A written statement signed by the business licensee or political subdivision that:
 - a. The business licensee or political subdivision has not operated in the business of pest management for more than five business days since the disassociation in the categories for which the disassociated QP was registered; and
 - b. The business licensee or political subdivision wants the certified applicator to act as a temporary QP.
- E.** A business licensee or political subdivision shall not use a temporary QP to qualify the business or political subdivision in a category for more than 180 days in any 12 month period.
- F.** Registration.
 1. QP registration is not transferable, expires on May 31, and is:
 - a. Issued with an expiration in the following calendar year as an initial registration,
 - b. Renewable for one or two years, depending on the renewal period selected by the applicant, and
 - c. Renewed for all registration categories for the same renewal period.
 2. Temporary QP registration is not transferable, is valid for 90 calendar days and may be renewed once.
 3. A QP or temporary QP may only register to qualify one business licensee or political subdivision except as provided in subsection (F)(4).
 4. A QP for political subdivisions shall separately register as a QP for each political subdivision served, but may not register as a QP for more than one political subdivision without approval from the director pursuant to R4-29-402(C).

R4-29-213. R4-29-206. Branch Office Registration; Branch Supervisor Registration

- A.** A business licensee ~~that wishes to~~ may not do business from a branch office ~~shall register unless~~ the branch office ~~and a branch supervisor are registered~~ with the ~~Commission~~ OPM ~~before doing any business from the branch office.~~
- B.** To register a branch office, the business licensee shall ~~complete a form, that is available on the Commission's web site, and provide~~ submit the fee specified in R4-29-103 and the following information on a form obtained from the OPM:

1. About the business:
 - a. Name;
 - b. License number;
 - c. Telephone and fax numbers;
 - d. Physical address;
 - e. Mailing address, if different from physical address; and
 - f. ~~Electronic mail~~ E-mail address, if any; and
 - g. Chemical storage address; and
 2. About the branch office:
 - a. Name of ~~manager;~~ branch supervisor;
 - b. ~~Manager's applicator license~~ Branch supervisor's applicator certification number;
 - c. Telephone and fax numbers;
 - d. Physical address;
 - e. Mailing address, if different from physical address;
 - f. ~~Electronic mail~~ E-mail address, if any; and
 - g. Chemical storage address; and
 - h. ~~The pest management categories in which the branch office will do business;~~
 3. ~~About the qualifying party:~~
 - a. ~~Name;~~
 - b. ~~Date of birth;~~
 - c. ~~Mailing address;~~
 - d. ~~Telephone number;~~
 - e. ~~Electronic mail address, if any; and~~
 - f. ~~Qualifying party license number; and~~
 4. ~~3.~~ The dated signature of an authorized representative of the licensed business licensee.
- ~~C. In addition to the form required under subsection (B), the business licensee shall submit the fee required under R4-29-105.~~
- ~~D.C.~~ A branch office shall be owned by the business licensee. A branch office shall do business in the name of the licensed business licensee only.
- D.** To register as a branch supervisor, the applicant shall submit the fee specified in R4-29-103 and the following information on a form obtained from the OPM:
1. Name;
 2. Applicator certification number;
 3. Home address;
 4. Mailing address, if different from the home address;
 5. E-mail address;
 6. Telephone number;
 7. Name of employer;
 8. Employer's business license number;
 9. Employer's telephone number;
 10. Address of branch office where the applicant will be the supervisor; and
 11. Dated signature of the applicant affirming that the information provided is true and correct.
- E.** A branch supervisor may only register to supervise a branch office at one physical location.
- F.** Registration. Registration as a branch office or branch supervisor is not transferable, expires on May 31, and is:
1. Issued with an expiration in the following calendar year as an initial registration, and
 2. Renewable for one or two years, depending on the renewal period selected by the applicant.

~~R4-29-207. Renewing an Applicator, Qualifying Party, or Business License~~
REPEAL

~~R4-29-208. Obtaining a Temporary Qualifying Party License~~
REPEAL

R4-29-207. Applicator Registration

- A.** Every applicator of a business licensee or political subdivision shall be registered with the OPM as an applicator for that business licensee or political subdivision before providing pest management services for the business licensee or political subdivision. This requirement is in addition to applicator certification requirements.
- B.** To register an applicator, a person shall submit the fee specified in R4-29-103 and the following information about the applicator on a form obtained from the OPM:
- 1.** Full name;
 - 2.** Home address;
 - 3.** Mailing address, if different from the home address;
 - 4.** E-mail address;
 - 5.** Date of birth;
 - 6.** Social Security number;
 - 7.** Telephone number;
 - 8.** Name, and license number if applicable, of the business licensee or political subdivision;
 - 9.** If an uncertified applicator, information and documentation concerning lawful presence required by A.R.S. § 41-1080;
 - 10.** For applicators of a business licensee, identification of the primary or branch office where the applicator's pest management records will be kept; and
 - 11.** Dated signature of the applicant affirming that the information provided is true and correct.
- C.** There is no fee to register an applicator of a political subdivision.
- D.** An applicator shall be at least 18 years of age.
- E.** Applicator registration is valid from the date the OPM receives all the information required under subsection (B) and the registration fee.
- F.** Applicator registration is non-transferable and expires on May 31.
- G.** A business licensee and QP are jointly responsible for ensuring compliance with this Section.
- H.** The director shall assess a business licensee with a \$150 civil penalty for each unregistered applicator.

R4-29-208. License, Certification and Registration Renewal

- A.** An application to renew a business license, applicator or QA certification, or qualifying party, branch office, branch supervisor, or applicator registration is due May 1 of the year the license, certification, or registration expires. Failure to receive a renewal application does not justify a failure to timely renew.
- B.** An applicant for renewal shall submit the following information on a form obtained from the OPM:
- 1.** All renewals:
 - a.** A change in mailing address, if any;
 - b.** E-mail address, if any;
 - c.** Telephone number;
 - d.** Dated signature of the applicant affirming that the information provided is true and correct; and
 - e.** License specific information described in this subsection, if applicable.
 - 2.** Business license:
 - a.** Name of the qualifying party in each category for which the business provides pest management services, and
 - b.** Proof that the licensee still meets the financial security requirement in A.R.S. § 32-2312.
 - 3.** Applicator and QA certification:

- a. Name of employer;
 - b. A statement whether the applicant has had a license or permit to practice pest management denied, revoked, or suspended during the last 12 months and if the answer is yes, the date, jurisdiction taking the action, nature of the action, and explanation of the circumstances; and
- 4. Applicator registration: The names and if applicable certification numbers of all of the business licensee's current applicators.
- C. An applicant for renewal shall select a one or two year renewal period and shall pay the renewal fee listed in R4-29-103 for each year of renewal.
- D. Expired license, certification, or registration.
 - 1. An applicant who submits a complete renewal application, including the renewal fee, after the expiration of the license, certification, or registration shall pay the late fee listed under R4-29-103 as a penalty in addition to the renewal fee.
 - 2. An applicant may renew an expired applicator or QA certification without retaking the written examinations provided the applicant:
 - a. Has satisfied the CEU requirements, and
 - b. Submits a complete renewal application, including the renewal fee, and the late fee by June 30.
 - 3. A license, certification, or registration that has been expired for more than one year may not be renewed. The former licensee may apply as a new applicant.
 - 4. Notwithstanding subsections (D)(1)-(3), an applicant who fails to renew because the applicant is on active military duty may apply for renewal within one year of honorable separation from active military duty without paying a late fee.
- E. Renewal effective date.
 - 1. If an applicant submits a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license certification, or registration does not expire until the renewal has been approved or in the case of denial or new limits on the license, certification, or registration until the last day for seeking review of the OPM order or later date fixed by a court.
 - 2. If an applicant fails to submit a complete application for renewal, including the renewal fee, before the expiration of the license, certification, or registration, then the license, certification, or registration expires as provided in this Article and is not valid until the OPM has approved the renewal application. A business, branch office, or applicator with an expired license, registration, or certification may not provide pest management services or otherwise engage in the business of pest management. A qualifying party with an expired registration may not qualify a business licensee or political subdivision. A branch supervisor with an expired registration may not supervise a branch office.
- F. CEU requirements.
 - 1. The OPM shall not renew a certification unless, prior to the expiration of the current certification, the applicator obtains the CEUs required by R4-29-213.
 - 2. Examination exception. An applicator who fails to complete the CEUs required for renewal may renew a certification, prior to expiration, for one year by submitting the completed application, including the renewal fee, and retaking and passing the applicable certification examinations.

~~R4-29-210.~~ Inactivating or Activating an Applicator License
REPEAL

~~R4-29-214, R4-29-209.~~ Change in a Business Licensee

- A. ~~If a sole proprietor business licensee dies or becomes disabled, the spouse of the sole proprietor business licensee may apply to the Commission to have the business license transferred to the spouse. The Commission shall transfer the business license to the spouse of the dead or disabled sole~~

- ~~proprietor business licensee if the spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer warranties provided by the business.~~
- ~~B. Except as provided in subsection (A), a business licensee shall stop providing pest management services and apply for a new business license immediately after the owner of a sole proprietorship changes.~~
- A. Except as otherwise provided in this section, any change in the majority ownership of a licensed business requires a new business license.
- B. Notwithstanding subsection (A), a business license may be transferred to a new majority owner upon approval of the OPM if the new majority owner:
1. Submits an application for a new business license, including the prescribed fee, pursuant to R4-29-202;
 2. Keeps the same business name as the prior owner; and
 3. Agrees to honor all customer contracts and warranties provided by the former business licensee.
- C. Transfer to spouse. If only one individual owns a licensed business, whether as a sole proprietor or a company, the business license may be transferred to the spouse of the owner upon approval of the OPM. Upon application by the spouse to transfer a business license, the OPM shall transfer the business license to the spouse without a fee if:
1. The spouse agrees to fulfill all the responsibilities of a business licensee and to honor all customer contracts and warranties provided by the business, and
 2. Either the spouse submits written consent of the current owner or verification that the current owner has died.
- D. When a business license is transferred under subsections (B) or (C), the new licensee shall be responsible for any disciplinary action taken by the OPM as a result of violations of this Chapter or the OPM's statutes by the former licensee.
- E. If, through a change in the majority ownership, a licensed business's office becomes a branch office of another licensed business, the new majority owner shall notify the OPM and comply with R4-29-206.
- F. A business licensee shall report any change in the principals of the business to the OPM within 30 days. Principal means a person who owns at least a 10 percent interest in a business. Principal includes an owner that is itself a business as well as owners of a principal.
- ~~C.G.~~ If a business licensee changes the name or form of the business, the licensee shall provide the following information on a Business Name or Entity Change Application submitted to the Commission within 30 days of OPM prior to the change:
1. Business ownership status;
 2. Name of business entity;
 3. Physical address of business entity;
 4. Mailing address of business entity, if different from the physical address;
 5. Current business name;
 6. Business license number;
 7. Telephone number;
 8. Fax number;
 9. Physical address of business;
 10. Mailing address of business, if different from the physical address;
 11. ~~Electronic mail~~ E-mail address, if any;
 12. Chemical storage address of business;
 13. New name requested, if any; requested;
 14. Reason for name change, if applicable;
 15. Copy of the Registered Trade Name Certificate showing the new name or amended Articles of Organization or Incorporation; and
 16. Dated signature of the authorized representative of the business licensee affirming that the information provided is true and correct.

~~R4-29-211. Inactivating or Activating a Qualifying Party License~~
REPEAL

~~R4-29-212. R4-29-210. Certification Broadening an Applicator or Qualifying Party License~~

- ~~A. To broaden an applicator license, the licensed applicator certification, the applicant shall:~~
- ~~1. Submit to the Commission the license application form described in R4-29-203 and indicate on the form application the category in which broadening is sought,~~
 - ~~2. Submit the fee required under R4-29-105(A)(1)(b), R4-29-103, and~~
 - ~~3. Take and pass the licensing certification examination described in R4-29-205 for the specific category in which broadening is sought.~~
- ~~B. A qualifying party QA is eligible to broaden the qualifying party license a QA certification only if the qualifying party holds an applicator license QA has a valid applicator certification in the category in which broadening is sought.~~
- ~~C. To broaden a qualifying party license, the licensed qualifying party QA certification, the QA shall:~~
- ~~1. Submit to the Commission the license application form described in R4-29-204 and indicate on the form application the category in which broadening is sought,~~
 - ~~2. Submit the fee required under R4-29-105(A)(2)(b), R4-29-103,~~
 - ~~3. Submit the evidence of experience required under R4-29-204(C)(2) R4-29-204(C) for the category in which broadening is sought, sought except as provided in subsection (D) of this section, and~~
 - ~~4. Appear at a Commission meeting for an evaluation of the qualifying party's practical experience for the category in which broadening is sought, and~~
 - ~~5. Take and pass the licensing certification examination described in R4-29-205 for the specific category in which broadening is sought.~~
- ~~D. If a qualifying party whose application for license broadening is closed under R4-29-107(B)(3) or (C) submits a new application under subsection (C) within one year after the prior application closed, the Commission shall not require the applicant to appear before the Commission as described in subsection (C)(4) unless the applicant was convicted of a felony or misdemeanor during the time between applications.~~
- ~~D. Experience exemptions. A QA may become certified without meeting the experience requirement of R4-29-204(C) in the categories of:~~
- ~~1. Right-of-way or ornamental and turf if the individual has QA certification in the category of industrial and institutional, wood-destroying organism management, ornamental and turf, or right-of-way.~~
 - ~~2. Wood-destroying organisms if the individual has QA certification in the industrial and institutional category.~~

~~R4-29-205. R4-29-211. Licensing Certification Examination for an Applicator or Qualifying Party Applicant~~

- ~~A. Under A.R.S. §§ 32-2312(C) and 32-2314(C), taking and passing an examination is a condition for licensure as an applicator or qualifying party.~~
- ~~B.A. An applicant who has received notice from the Commission that the applicant is approved to take the licensing examination for applicator certification or QA certification shall make arrangements to take the examination certification examinations by contacting the Commission OPM or the examination service or testing vendor with which the Commission OPM has contracted.~~
- ~~C. To assist an applicant to prepare for the licensing examination, the Commission shall maintain a list of study materials on its web site and may provide an examination training class. An applicant may also take an examination training class from a private vendor.~~

- ~~D. The licensing examination measures knowledge and understanding of both general and category-specific information. To be licensed, an applicant shall score at least 75 percent on the general standards ("core") examination and the category-specific examination for each category in which the applicant seeks licensure.~~
- ~~E.B. Both the~~ The core and category-specific licensing examination for an applicator and qualifying party examinations may measure knowledge and understanding of the following content areas:
1. Pesticide label and labeling and pesticide types and formulations;
 2. Pest identification, life cycles, and habits;
 3. Safety and environmental factors relating to the use, handling, storage, and disposal of pesticides;
 4. Application techniques, calibration and dilution, and equipment types, uses, and maintenance; and
 5. Laws and rules.
- ~~F. The Commission or the examination service or testing vendor shall provide immediate, written notice to an applicant regarding whether the applicant passed a licensing examination.~~
- C. To be certified, an applicant shall score at least 75 percent on the general standards ("core") examination and on the category-specific examination in each category for which the applicant seeks certification.
- ~~G.D. An applicant shall not take the same examination more than once on the same day who fails an examination may not retake the examination for at least seven days or more than three times in a 12-month period.~~
- E. An examination score is only valid for the earlier of 12 months from the date of application for certification or 12 months from the examination date.
- ~~H.F. The Commission~~ OPM shall immediately close void the examination score and deny the application of an applicant that the Commission OPM determines cheated on an examination. The applicant may not reapply for one year.
- ~~I. If an application is closed under subsection (H), the score received on the examination is void.~~

R4-29-212. Reciprocity

Notwithstanding the examination requirements in R4-29-203(C), R4-29-204(G), and R4-29-211, the director may waive the examination requirements in whole or in part for an individual who is certified as an applicator pursuant to A.R.S. Title 3, Chapter 2 or by another state.

R4-29-215, R4-29-213. Continuing Education Requirement for an Applicator or Qualifying Party

- ~~A. An~~ A certified applicator or qualifying party shall who is not a QA shall, during the current certification period, obtain six units of continuing education within the 13 months before a license renewal application is submitted under R4-29-207 CEUs in order to renew the certification for one year and 12 CEUs in order to renew for two years.
- ~~B. Continuing education units used to renew an applicator license may be used to renew the applicator's qualifying party license if the continuing education units were obtained within 13 months before the qualifying party license renewal application is submitted. Continuing education units used to renew a qualifying party license may be used to renew the qualifying party's applicator license if the continuing education units were obtained within 13 months before the applicator license renewal application is submitted.~~
- ~~C. To document attendance at a continuing education an applicator or qualifying party shall obtain a verification of attendance from the continuing education provider that includes:~~
1. ~~The applicator's or qualifying party's name;~~
 2. ~~The applicator's or qualifying party's license number;~~
 3. ~~The name of the continuing education;~~
 4. ~~The name of the continuing education provider;~~
 5. ~~The date of the continuing education; and~~

6. ~~The number of continuing education units obtained.~~
- ~~D.~~ ~~An applicator and qualifying party shall maintain a verification of attendance for one year and make the verification of attendance at a continuing education available for review by the Commission upon request.~~
- ~~E.~~ ~~An applicator or qualifying party may earn one unit of continuing education each year for attending a regularly scheduled meeting of the Commission in its entirety. To ensure receipt of a verification of attendance, an applicator or qualifying party shall contact the Commission staff before attending a Commission meeting and sign the meeting sign-in sheet.~~
- B. A QA shall, during the current certification period, obtain 12 CEUs in order to renew the certification for one year and 24 CEUs in order to renew for two years.
- C. For an individual who holds both a certified applicator license and a QA license, obtaining the units required in subsection (B) satisfies the requirement in subsection (A).
- ~~F.D.~~ ~~An applicator or qualifying party who teaches a continuing education course may earn one unit of continuing education for each hour taught, not more than once during a calendar year.~~
- E. No CEU credit will be earned by an attendee of a continuing education course who does not complete the course.

~~R4-29-216. R4-29-214. Requirements for Approval of Continuing Education Approval~~

- ~~A.~~ ~~Only continuing education courses approved by the Commission OPM may be used to satisfy the continuing education requirement in ~~R4-29-215 R4-29-213~~. The Commission OPM shall approve a continuing education course only if it the course addresses:~~
- ~~1. Pesticide labels and labeling;~~
 - ~~2. Safety, environmental factors, and consequences;~~
 - ~~3. Pesticide use and disposal;~~
 - ~~4. Laws and rules related to pest management and the business of pest management;~~
 - ~~5. Application techniques;~~
 - ~~6. Calibration and dilution;~~
 - ~~7. Equipment;~~
 - ~~8. Pest identification;~~
 - ~~9. Life cycles and habits;~~
 - ~~10. Calculation and measurements;~~
 - ~~11. New pest management technologies; or~~
 12. Integrated pest management; or
 - ~~12,13.~~ Licensee responsibilities.
- ~~B.~~ ~~An applicator, qualifying party, or continuing education provider may apply to the Commission for approval of continuing education.~~
- ~~C.B.~~ ~~A person applying for approval of continuing education shall submit the following to the Commission: A person who wishes to have the OPM determine whether a course qualifies for CEU credit shall submit the following information to the OPM:~~
- ~~1. A continuing education approval application form, obtained from the Commission, that provides the following information:~~
 - ~~a.1. Type of continuing education listed under subsection (A);~~
 - ~~b.2. Name of continuing education provider;~~
 - ~~c.3. Address and telephone number of continuing education provider;~~
 - ~~d. Topic of continuing education;~~
 - ~~e. Pest management category of continuing education;~~
 - ~~f. Date, time, and location of the continuing education, if known at the time of the application. If this information is not known at the time of application, the person applying for approval of the continuing education shall submit this information when it is known;~~
 4. Course outline, listing the subjects and indicating the amount of time allocated for each subject;

5. Brief description of the information covered within each subject;
 6. Brief biography of the presenter, demonstrating the presenter's qualifications;
 7. Fees charged for attending the course;
 8. Date and location of each session;
 9. Whether the course is open to the public;
 - g.10. Number of continuing education units sought;
 - h.11. Previous continuing education number, if any; and
 - i. Level and type of instruction;
 - j. Description of learning activities;
 - k. Frequency at which the continuing education will be offered;
 - l. Method of proof of attendance in addition to on-line reporting; and
 - m.12. Dated signature of applicant;
 2. An instructor application or resume that includes information about the instructor's education and experience relevant to pest management;
 3. An outline of the subject matter to be covered in the continuing education that demonstrates the continuing education will address at least one of the topics identified in subsection (A);
 4. A copy of any material that will be used or provided to those who attend;
 5. A copy of an examination, if any, used to measure learning; and
 6. A copy of promotional materials, if any.
- D.C.** The provider of an approved continuing education course shall:
1. Provide a verification of attendance that meets the requirements of R4 29-215(C) to each individual who completes the continuing education;
 2. Enter attendance information using the Commission's OPM's on-line continuing education reporting tool within 10 days after the date of the continuing education; education course, and
 - 3.2. Maintain a copy of the verification of attendance or and original sign-in sheet that lists the attendees' names and license certification numbers for two years.
 3. Allow OPM and Department employees to attend the course and review course materials without charge, except that the provider has no obligation to provide food to the employees that is made available for paying attendees.
- E.D.** Unless otherwise indicated in the notice of approval, the ~~Commission's~~ OPM's approval of a continuing education course is valid for two years.
- F.E.** Approval of a continuing education course is not renewable. To reapply for approval of a continuing education course, a person shall comply with the requirements of subsection ~~(C)~~ (B).
- G.F.** The provider of an approved continuing education course shall provide notice and updated information to the ~~Commission~~ OPM within 10 days after the subject matter or instructor of the ~~approved continuing education~~ course changes.
- H.G.** To evaluate the effectiveness of a continuing education course, the ~~Commission~~ OPM may monitor an approved continuing education course at no cost. Upon request by the ~~Commission~~ OPM, a continuing education provider shall provide the ~~Commission~~ OPM with the date and time that ~~approved continuing education~~ the course will be provided.
- I.H.** The ~~Commission~~ OPM shall revoke its approval of a continuing education course if the ~~Commission~~ OPM determines that the ~~continuing education~~ course fails to meet the standards for approval listed in this Section, the continuing education provider provided false information on its application or false information pertaining to attendance, or the continuing education provider fails to comply with the ~~Commission's~~ OPM's statutes and this Chapter.
- I.** The OPM may modify the number of CEUs earned for a CEU course if the CEU course varies significantly in content or length from the approved curriculum. If the OPM modifies the number of CEUs earned, the OPM shall send a letter of modification to the course organizer, who shall be required to inform all individuals who attended the course.

ARTICLE 3. ~~APPLICATOR DUTIES AND RESPONSIBILITIES~~ PEST MANAGEMENT

~~R4-29-304.~~R4-29-301. Using Pesticides and Devices

- A. An applicator shall use only a pesticide that is currently registered for use by ~~both the EPA and the Arizona Department of Agriculture.~~
- B. An applicator shall not misuse a pesticide or device. It is misuse of a pesticide or device if an applicator:
1. Applies, handles, stores, or disposes of a pesticide or device in a manner that is inconsistent with the label or labeling;
 2. Provides a pest management service or handles a pesticide without wearing clothing and using the personal protective equipment required by the label or labeling to protect the applicator from pesticide exposure;
 3. Uses a pesticide in a manner that causes the pesticide to come into contact with a person, other than the applicator, animal, or property, other than the property receiving the pest management service, unless the contact results from an accident beyond the reasonable control of the applicator;
 4. Uses a pesticide in a food-handling establishment that the label or labeling recommends not be used in a food-handling establishment; and
 5. Uses a pesticide in a manner that contaminates food, feed, or drugs or equipment used to prepare or serve food, feed, or drugs.
- C. While mixing a pesticide with water, an applicator shall protect the water supply from back-siphoning of the pesticide mixture. An applicator shall not add water to a tank in which a pesticide is mixed or from which a pesticide is dispensed by protruding a fill-pipe or hose connection into the tank. An applicator shall ensure that a fill-pipe or hose connection terminates at least two inches above the tank fill opening or is equipped with an effective anti-siphoning device.
- D. An applicator shall ensure that all equipment, including auxiliary equipment such as a hose or metering device, used for mixing or applying a pesticide is in good repair and operating properly.
- E. An applicator shall apply, store, or dispose of a pesticide designated by the EPA as restricted use only if the applicator is ~~licensed~~, certified or working under the immediate supervision of a ~~licensee~~ licensed applicator in the category for which the restricted-use pesticide is applicable.
- ~~F. Unless consistent with the label and labeling, an applicator shall not apply a granulated pesticide that bears the statement "Keep out of the reach of children" in a manner that leaves exposed granules on a patio, step, porch, sidewalk, driveway, or floor.~~
- ~~G.F.~~ An applicator shall clean a pesticide spill in accordance with the pesticide label and labeling ~~and in a manner that minimizes exposure to humans and other non-target organisms. If a pesticide spill may endanger humans, an applicator shall clean the pesticide spill in accordance with recommendations by health and medical personnel and local authorities directions.~~
- ~~H.G.~~ An applicator shall apply a pesticide at a rate provided by a Special Local Need registration issued by the ~~Arizona Department of Agriculture~~ and the pesticide labeling only if the applicator has both the Special Local Need registration and labeling in the applicator's possession at the time of application.
- ~~I.H.~~ If information regarding provision of a particular pest management service is not available on the pesticide label or labeling or addressed in the ~~Commission's~~ OPM's statutes or this Chapter, an applicator shall comply with the pesticide manufacturer's recommendation and the general industry practice prevailing in the community at the time the pest management service is provided.
- ~~J.I.~~ If there is a conflict between any provision in this Section and labeling instructions ~~or a local ordinance~~, an applicator shall follow the more specific instruction.

~~R4-29-306.~~ R4-29-302. Storing and Disposing of Pesticides and Devices

- A. An applicator shall store and dispose of a pesticide or device in a manner consistent with its label and labeling.
- B. An applicator shall store a pesticide in a closed container that is free from corrosion, leakage, or pesticide contamination and properly labeled.
- C. An applicator shall ensure that a service container bears a durable and legible specimen label with the following information:
 - 1. The name, address, and telephone number of the business licensee or political subdivision;
 - 2. The common chemical or trade name of the principal active ingredients;
 - 3. The EPA registration number;
 - 4. The strength of the concentrate or dilution expressed as a percentage of active ingredients;
 - 5. Any signal word required on the label; and
 - 6. The phrase "KEEP OUT OF REACH OF CHILDREN."
- D. An applicator shall not place words or markings on a service container or on the label affixed to the service container that are unrelated to the pesticide in the service container, except for markings related to a method of tracking the product.
- E. If the label affixed to a pesticide container becomes lost or damaged, an applicator shall attach ~~an approved~~ a specimen label to the pesticide container.
- F. An applicator shall replace a damaged container, other than a fumigant container, with an identically labeled container or a properly labeled service container.
- G. Application equipment from which a pesticide is directly discharged and in which the pesticide is not stored is not subject to the labeling requirements of this Section.
- H. An applicator shall not store a pesticide in ~~the same room or common air space where~~ a manner which food, beverage, feed, drugs, cosmetics, eating utensils, or tobacco products ~~are stored~~ can be contaminated.
- I. An applicator shall not store a pesticide in a container that was used for food, beverage, feed, drugs, or cosmetics, or which by size, shape, or marking could be confused as being a food, beverage, feed, drug, or cosmetic.
- J. An applicator shall not store a fumigant within a residential structure or in the cab of a vehicle.
- K. An applicator shall ensure that a pesticide in an original or service container, an empty pesticide container that has not been prepared for disposal in accordance with its label, or a returnable or reusable pesticide container is kept in a locked storage space when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
- L. An applicator shall ensure that a pesticide in portable application equipment is kept locked when on an unattended service vehicle or is within view and under the supervision of the applicator responsible for the service vehicle.
- M. To prevent damage during transit, an applicator shall ensure that a pesticide container is secured in a locked storage space while the pesticide container is transported on a service vehicle.

~~R4-29-606.~~ R4-29-303. Storing Pesticides and Devices Pesticide and Device Storage Area

- A. A business licensee or political subdivision shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.
- B. A business licensee or political subdivision shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.
- C. Immediately after storing a pesticide, a business licensee or political subdivision shall conspicuously post a sign at the entrance or access to a non-vehicle storage area and on a vehicle storage area indicating there is a pesticide, chemical, or poison stored inside.

- D. A business licensee or political subdivision shall provide sufficient ventilation to the outside of the storage area required under subsection (A) to prevent build-up of odors and preclude chemical injury to an individual or animal.
- E. A business licensee or political subdivision shall provide the following in or immediately adjacent to the storage area required under subsection (A), including a storage area on a service vehicle:
 - 1. Electric or battery-powered lighting that is sufficient to read a pesticide label;
 - 2. Fully charged and operational fire extinguisher or fire suppression system appropriate to each pesticide stored in the area;
 - 3. ~~First aid kit that includes the supplies listed in R4-29-607(6);~~
 - 4. ~~3.~~ Emergency medical information including the telephone number of the state or local poison control center;
 - 5. ~~4.~~ Material capable of absorbing a spill or leak of at least one gallon;
 - 6. ~~5.~~ Specimen label and MSDS for each pesticide stored in the area; and
 - 7. ~~6.~~ Washing facilities that include fresh water, soap, and towels.

R4-29-304. Devices Exempt From Licensure and Registration; Advertising

- A. The following devices are not subject to the licensure and registration requirements of this Chapter or the OPM's statutes:
 - 1. Physical barriers used to remove or prevent infestation by pests;
 - 2. Equipment used for the physical removal of pests or the habitat of pests;
 - 3. Mechanical equipment used for the physical removal of weeds and other vegetation;
 - 4. Mechanical traps used without a pesticide;
 - 5. Installation equipment used for home improvement or modifications;
 - 6. Raptors used to control or relocate other birds; and
 - 7. Fire arms.
- B. An unlicensed person who engages in the business of pest management, but is exempt from licensure and registration because the person does not apply any pesticides and only uses devices listed in subsection (A) shall prominently display or include the phrase "Not a licensed pest control company" in all written and oral advertisements.

R4-29-607.R4-29-305. Equipping a Service Vehicle

- A business licensee licensee or political subdivision shall provide each service vehicle with the following:
- 1. All equipment and supplies required by the label and labeling to apply properly the pesticides on the service vehicle;
 - 2. A measuring and pouring device compatible with the pesticides on the service vehicle;
 - 3. Protective clothing and safety equipment suitable for use when handling, mixing, or applying the pesticides on the service vehicle;
 - 4. Material capable of absorbing a spill or leak of at least one gallon;
 - 5. A storage container large enough to hold material contaminated by absorbing a spill or leak of pesticides;
 - 6. ~~A first aid kit that contains the following:~~
 - a. ~~Antiseptic cleansing wipes, soap and water, or skin sanitizer;~~
 - b. ~~Clean, uncontaminated, non-latex gloves;~~
 - c. ~~Adhesive bandages, gauze, and tape;~~
 - d. ~~Disposable towels;~~
 - e. ~~First aid guide; and~~
 - f. ~~Emergency telephone numbers including the telephone number of the state or local poison control center;~~
 - 7. ~~6.~~ At least one gallon of clean, drinkable water for each individual using the service vehicle at one time;
 - 8. ~~7.~~ Uncontaminated change of clothing;

- 9-8. Specimen label and MSDS for each pesticide on the service vehicle; and
- 10-9. A locking storage space designed to prevent a pesticide container from being damaged while in transit.

~~R4-29-302.~~ R4-29-306. Providing Notice to Customers

- A. ~~An~~ Immediately following an application, the applicator shall provide a written notice to a customer for whom the applicator provides a pest management service that contains the:
 - 1. ~~Identifies the pesticide used;~~
 - 2. ~~Provides all information required by the label or labeling;~~
 - 3. ~~Provides all information required by local ordinance; and~~
 - 1. Name and address of the customer;
 - 2. Specific site to which a pesticide was applied;
 - 3. Date of service;
 - 4. Target pest or purpose of service;
 - 5. Trade name of pesticide applied;
 - 6. EPA registration number of **restricted use** pesticide applied;
 - 7. Percent active ingredient in the pesticide as applied;
 - 8. Name and certification number of the applicator or if the applicator is uncertified, the name of the uncertified applicator and the name and certification number of the applicator providing supervision; and
 - 4-9. ~~Includes the following~~ Following statement printed in at least an eight-point font: “Warning—Pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated, or aerated. For more information, contact [business licensee’s name and business license number issued by the ~~Commission~~ OPM] at [business licensee’s telephone number].”
- B. An applicator who provides a pest management service at a school shall comply with the notification requirements in A.R.S. § ~~32-2307~~ 32-2321.

~~R4-29-303.~~ R4-29-307. Performing a Wood-destroying Insect Inspection

- A. Only an applicator ~~licensed in both categories B-2 and B-8~~ certified in the category of wood-destroying organism management or wood-destroying insect inspection and who has received the training required under A.R.S. § 32-2324(A) may perform a wood-destroying insect inspection or complete a WDIIR.
- B. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ WDIIR shall inspect all areas of a structure that are visible or accessible at the time of the inspection.
- C. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ WDIIR may exclude from inspection an area that is permanently covered by a floor covering, wall covering, or built-in appurtenance such as a bookcase, cabinet, appliance, equipment, or furniture or that would require removing or marring finish work or moving furniture, appliances, or equipment. The applicator shall note on the WDIIR all areas that are not inspected and the reason the areas are not inspected.
- D. An applicator ~~performing~~ completing a ~~wood-destroying insect inspection~~ WDIIR shall inspect all areas where there is evidence of current or previous infestation and where a condition conducive to infestation exists. A condition conducive to infestation includes:
 - 1. Faulty grade level. If a structure contains a slab or floor that is ~~on or near~~ at or below grade, the existing earth level is considered grade level;
 - 2. Inaccessible sub-area such as an area with less than 18 inches of clear space between the bottom of a floor joist and grade level;
 - 3. Excessive cellulose debris. Cellulose debris is excessive when:
 - a. The debris can be raked into a pile of at least one cubic foot,
 - b. A stump or wood imbedded in a footing of the structure is in contact with earth, or
 - c. Firewood or a lumber pile is within six inches of the structure;

4. Earth-to-wood contact, which involves wood that is part of a structure or that is attached to or securely abuts the structure and is in contact with the ground; or
 5. Excessive moisture or evidence of a moisture condition in or around a ~~structure; or structure.~~
 6. ~~Insufficient ventilation. Ventilation is insufficient when there are fewer than two areas to permit cross ventilation and prevent excessive moisture.~~
- E. To verify whether a corrective treatment was performed or a condition conducive to infestation was corrected, an applicator may conduct a supplemental inspection within 30 days after an original inspection. An inspection conducted more than 30 days after an original inspection is not a supplemental inspection.

R4-29-305, R4-29-308. Performing Wood-destroying Insect Control Management

- A. An applicator shall not perform wood-destroying insect ~~control~~ management or fumigation unless the applicator is ~~licensed in Category B2 or B4, certified in the category of wood-destroying organism management or fumigation, respectively, or working under the immediate supervision of an applicator or qualifying party who is licensed in Category B2 or B4, certified in the category of wood-destroying organism management or fumigation respectively.~~
- B. An applicator shall not perform wood-destroying ~~insect control~~ organism management until the business licensee or political subdivision that employs the applicator ensures that:
1. A wood-destroying insect inspection is performed under ~~R4-29-303~~ R4-29-306 by a ~~licensed~~ certified applicator qualified meeting the training requirement under A.R.S. § 32-2323(E),
 2. A treatment proposal is prepared on a form approved by the ~~Commission~~ OPM and contains the information required under A.R.S. § 32-2323(B) and (C), and
 3. The treatment proposal is delivered to the person requesting the proposal or treatment.
- C. An applicator shall apply a termiticide only in the quantity, strength, ~~and~~ dosage, and ~~in the~~ manner prescribed on the termiticide label unless otherwise specified by this Chapter or a ~~Commission~~ OPM order.
- D. Pretreatment for commercial or residential construction.
1. Unless a contract between the business licensee and customer specifies additional requirements, an applicator performing a pretreatment shall:
 - a. Establish a horizontal barrier of termiticide before any concrete slab under roof is poured or in conjunction with establishing the footings and supports for a raised foundation; and
 - b. Establish a vertical barrier of termiticide in all critical areas visible during the time of pretreatment. An area is critical at the time of pretreatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - i. A penetration or protrusion through the slab;
 - ii. An observable preset for crack or joint control;
 - iii. A formed-up change of grade level;
 - iv. Abutting slabs;
 - v. A bath trap or tear-out;
 - vi. The interior of a foundation or stem wall; or
 - vii. A pier, pillar, pipe, or other object that extends from the soil to the structure.
 2. Except as specified in subsection (D)(3) and unless the termiticide label requires more, an applicator shall treat all critical areas during a ~~pretreatment, including the final grade portion of a pretreatment,~~ pretreatment at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth from grade level to the footer. If there is no adjacent footer, the applicator shall treat to a depth of one foot.
 3. Unless the termiticide label requires more, an applicator is not required to treat a critical area during a pretreatment beyond a depth of four feet if:
 - a. Treating beyond a depth of four feet will, or reasonably may, cause an off-site application;
 - b. Access to the footer is not possible because of its distance below grade; or

- c. Treating beyond a depth of four feet will, or reasonably may cause an environmental contamination.
4. If an applicator does not treat a critical area during a pretreatment beyond a depth of four feet because the applicator determines that one of the exceptions in subsection (D)(3) is applicable, the applicator shall:
 - a. Apply the amount of termiticide possible without causing an off-site application or environmental contamination, and
 - b. Include evidence of the exception in the treatment record. Evidence of the exception may include:
 - i. A photograph of the interior grade and adjacent location that would or reasonably might be contaminated by treating beyond a depth of four feet,
 - ii. A photograph of the site after the pretreatment but before concrete placement,
 - iii. A written statement from the general contractor concerning the fill material and compaction rating,
 - iv. A written statement from the concrete subcontractor describing the depth of the footer as greater than four feet, or
 - v. A written compaction rating statement from the engineering subcontractor.
5. If an applicator is advised before concrete is poured that a treated area is disturbed and the continuous horizontal or vertical chemical barrier established under subsection (D)(1) is broken, and if the applicator is provided an opportunity to re-treat the disturbed area, the applicator shall re-treat the disturbed area and re-establish a continuous horizontal and vertical chemical barrier.
6. Immediately after completing a pretreatment, an applicator shall securely affix a tag to the pretreatment site. The applicator shall ensure that the tag is visible, readily available for inspection, and unlikely to be covered with concrete or soil. If there is a contractor's permit or inspection board at the pretreatment site, the applicator may affix the tag to the board. The applicator shall ensure that the tag contains the following information about the pretreatment:
 - a. Name of business licensee;
 - b. Address of business licensee;
 - c. Telephone number of business licensee;
 - d. License number of business licensee;
 - e. Location or address of project;
 - f. Date of pretreatment application;
 - g. Time that application was started (not time that applicator arrived at the site);
 - h. Time that application ended (not time that applicator left the site);
 - i. Trade name of pesticide used;
 - j. Percentage of active ingredient in the pesticide used;
 - k. Number of gallons of chemical preparation applied;
 - l. Square footage of area treated;
 - m. Linear footage of area treated;
 - n. Type of slab construction;
 - o. Name of applicator; and
 - p. License Certification number of applicator or, if not ~~licensed~~, certified, the name and license certification number of the applicator ~~or qualifying party~~ providing immediate supervision.
7. If it is necessary for an applicator to abandon a pretreatment site before completing the treatment, the applicator shall complete and affix the tag described in subsection (D)(6), representing the work completed, and after marking the tag "TREATMENT INCOMPLETE."
8. If a contractor requires a copy of the tag described in subsection (D)(6) for the customer's file, an applicator shall prepare and provide the contractor with a duplicate tag that is clearly marked "DUPLICATE."
9. ~~An applicator shall leave a record of the final grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record~~

~~with the property agent. The applicator shall ensure that the record of the final grade treatment contains the information listed in subsection (D)(6) except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.~~

E. New-construction treatment for commercial or residential construction.

1. Unless specifically precluded by the termiticide label, an applicator performing a new-construction treatment shall treat all critical areas visible at the time of ~~a new construction~~ the treatment. An area is critical at the time of a new-construction treatment if the area is identified as critical by the termiticide label or if there is soil in the immediate vicinity of:
 - a. A penetration or protrusion through the slab;
 - b. An observable crack or joint;
 - c. Abutting slabs;
 - d. A bath trap or tear-out;
 - e. The interior of a foundation or stem wall; or
 - f. A pier, pillar, pipe, or other object that extends from the soil to the structure.
2. An applicator shall comply with subsections (D)(2) through (D)(4) when treating a critical area during a new-construction treatment except that the treatment shall be at the labeled rate rather than at a rate of four gallons of chemical preparation per 10 linear feet for each foot of depth.
3. If an applicator is advised that a treated area is disturbed, the applicator shall re-treat the disturbed area.
4. Immediately after completing a new-construction treatment, an applicator shall securely affix a tag to the new-construction site in the manner described in subsection (D)(6). The applicator shall ensure that the tag contains the information listed in subsection (D)(6).
5. An applicator shall comply with subsections (D)(7) ~~through (D)(9)~~ and (D)(8) when performing a new-construction treatment.

F. Final grade treatment for commercial or residential construction.

1. A business licensee that performs a pretreatment or new-construction treatment shall perform a final grade treatment. The final grade treatment must occur after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.
2. An applicator shall treat the soil along the exterior of foundation walls at a rate of four gallons of chemical preparation per 10 linear feet after all grading and other construction-related soil disturbance is complete, but within twelve months of the original pretreatment or new-construction treatment.
3. An applicator shall leave a record of the final grade treatment in an unlocked electrical or circuit-breaker box, if available. Otherwise, the applicator shall conspicuously post or leave the record with the property agent. The applicator shall ensure that the record of the final grade treatment contains the information listed in subsection (D)(6), except the information required under subsections (D)(6)(l) and (D)(6)(n) is not required.

G. Post-construction treatment for commercial or residential construction.

1. If an applicator uses a drilling and injecting application method for a post-construction treatment, the applicator shall space the treatment holes in each treated area no more than 24 inches apart or in accordance with the termiticide label, whichever is more restrictive. If an applicator determines that a structural feature makes it necessary to space treatment holes more than 24 inches apart, the applicator may space the treatment holes more than 24 inches apart if the greater distance is within the limits on the termiticide label.
2. If the critical areas of a structure received neither a pretreatment nor a new-construction treatment, an applicator shall treat all critical areas visible at the time of post-construction treatment before issuing a builder's warranty regarding ~~subterranean termite~~ wood-destroying insect treatment. An area is critical at the time of a post-construction treatment if it is an area listed in subsection (D)(1)(b), a change of grade, or a crack greater than 1/16th of an inch.

3. After completing a post-construction treatment using a drilling and injection application method, an applicator shall securely patch all treatment holes, including those in an unfinished basement, enclosed porch, garage, or workshop, with a material that is nonporous and non-cellulose.

G.H. An applicator who performs a ~~pretreatment or~~ pretreatment, new-construction treatment or final grade treatment shall ensure that a copy of the information recorded on a tag required under subsection (D) or (E) ~~or the final grade treatment record required under subsection (F)~~ is provided to the business licensee for inclusion in the business licensee's service records.

R4-29-608, R4-29-309. Providing Termite Treatment Wood-Destroying Insect Management Retreatments

A. If a business licensee or an employee of a business licensee is advised before concrete is poured that a pretreatment area is disturbed and the continuous chemical barrier is broken and if an opportunity is provided to re-treat the disturbed area or is advised that a new-construction treatment area is disturbed, the business licensee shall ensure that the disturbed area is retreated.

B. ~~A business licensee that performs a pretreatment or new-construction treatment shall establish vertical barriers at the exterior of foundation walls in stem wall construction or the exterior of grade beam in monolithic construction after all grading and other construction related soil disturbance is complete. This final grade treatment, which may be completed after construction, is part of either the pretreatment or new-construction treatment.~~

C.B. A business licensee that provides a ~~termite treatment~~ wood-destroying insect treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins.

D.C. If ~~subterranean termites~~ wood-destroying insects occur in or on a residential or commercial structure within ~~five~~ three years after a business licensee first performs a pretreatment or new-construction treatment of the structure, the business licensee shall re-treat the structure free of charge in accordance with the label specifications of a termiticide available for use. If ~~subterranean termites~~ wood-destroying insects occur in or on an addition that does not abut the slab of a residential or commercial structure within ~~five~~ three years after a business licensee first performs a pretreatment or new-construction treatment of the non-abutting addition, the business licensee shall re-treat the non-abutting addition free of charge in accordance with the label specifications of a termiticide available for use. For the purpose of this subsection, the business licensee is the business licensee who performed the pretreatment or new-construction treatment or a successor that acquired the business assets pertaining to ~~category B2 or B8~~ wood-destroying insect treatment.

E.D. If ~~subterranean termites~~ wood-destroying insects occur a third time on the exterior of a one or two unit residential structure within ~~five~~ three years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall re-treat the entire exterior perimeter of the structure free of charge.

1. As used in this subsection, exterior means a portion of a residential structure where ~~termite~~ wood-destroying insect activity originates and that is not livable and not a garage;
2. For the purpose of this subsection and subsection ~~(F)~~ (E):
 - a. A first occurrence means the first time evidence of ~~subterranean termites~~ wood-destroying insects exists after a pretreatment or new-construction treatment;
 - b. A second occurrence means evidence of ~~subterranean termites~~ wood-destroying insects exists at least 25 feet away from the site of the first occurrence and at least 45 days after the date of re-treatment for the first occurrence; and
 - c. A third occurrence means evidence of ~~subterranean termites~~ wood-destroying insects exists at least 25 feet away from the sites of both the first and second occurrences and at least 45 days after the date of re-treatment for the second occurrence.

F.E. If ~~subterranean termites~~ wood-destroying insects occur a third time on the interior of a one or two unit residential structure within ~~five~~ three years after a business licensee first performs a pretreatment or new-construction treatment, the business licensee shall perform a post-construction treatment of

the entire structure free of charge. As used in this subsection, interior means a portion of a residential structure where ~~termites~~ wood-destroying insect activity originates and that is livable or a garage.

G.F. A business licensee that performs a re-treatment under subsection (C) or (D) ~~or (E)~~ or a post-construction treatment under subsection ~~(F)~~ (E) shall not charge the consumer for any expense incurred in providing the re-treatment or post-construction treatment to which the consumer is entitled under this Chapter.

H.G. If a business licensee goes to a structure to perform a re-treatment under subsection (C) or (D) ~~or (E)~~ or a post-construction treatment under subsection ~~(F)~~ (E) and determines there is no evidence of ~~subterranean termites~~ wood-destroying insects, the business licensee may charge the consumer a reasonable amount for the expenses incurred in making the trip.

I.H. If a business licensee determines that a re-treatment or post-construction treatment is necessary because the continuous chemical barrier is disturbed, the business licensee may charge the reasonable cost of reestablishing the barrier.

J.I. If a customer refuses a re-treatment or post-construction treatment as described in this Section, access to the customer's property, or to allow drilling in an area where drilling is necessary, the business licensee shall obtain the customer's printed name and dated signature on a document evidencing that the business licensee:

1. Informed the customer of the right to a re-treatment or post-construction treatment at no charge,
2. Provided the customer with a copy of this Section and the termiticide label requirements,
3. Provided the customer with the ~~Commission's~~ OPM's telephone number, and
4. Explained to the customer the benefits of having and the detriments of not having a re-treatment or post-construction treatment.

~~R4-29-605, R4-29-310.~~ Business Management

A. Financial responsibility.

1. A business licensee shall maintain the financial responsibility required by A.R.S. § ~~32-2313~~ 32-2312 and this ~~Chapter~~, Chapter.
2. A business licensee shall ensure that the required financial responsibility covers all pest management activities provided from the primary business office and each branch ~~office; and~~ office.
3. If there is an interruption in the financial responsibility of a business licensee, the business licensee shall immediately stop providing pest management services.

B. Use of business name and license number.

1. A business licensee shall prominently display the license issued by the ~~Commission~~ OPM at the primary business office and each branch office.
2. A business licensee shall prominently display the business name and license number, as recorded on the license issued by the ~~Commission~~ OPM, on:
 - a. Customer proposals or contracts for pest management services;
 - b. Service records;
 - c. Inspection reports;
 - d. Written materials provided to customers or potential customers;
 - e. Correspondence;
 - f. Advertisements; and
 - g. Service vehicles and trailers used in providing pest management services. The business licensee shall ensure that the business name and license number display on a service vehicle or trailer used in providing pest management services conforms to the following:
 - i. Is affixed to the service vehicle or trailer used in providing pest management services within 30 days after the ~~Commission~~ OPM issues the license or issues a business license change ~~under R4-29-214~~ or after the service vehicle or trailer is acquired, whichever is sooner;

- ii. Is in a color that contrasts with the color of the service vehicle and trailer;
 - iii. Is on both sides of the service vehicle and trailer;
 - iv. Uses at least two-inch letters for the principal words in the business name and at least one and one-half inch letters for other words in the business name; and
 - v. Uses at least two-inch numbers for the license number.
3. A business licensee that always uses a service vehicle and trailer together is required to mark only the service vehicle or trailer as described in subsection (B)(2)(g). A business licensee that uses a vehicle only for sales, solicitations, or solely for inspections and does not carry a pesticide, and does not otherwise use the vehicle to provide a pest management service, is not required to mark the vehicle as described in subsection (B)(2)(g).
4. When complying with subsection (B)(2), a business licensee may use a slogan, trade name, or trade mark in addition to the business name and license number. When complying with subsection (B)(2), a business licensee may use a word or phrase to indicate its former licensed business name if it had a previously licensed business name.
- ~~C. Notice to Commission of an incident. A business licensee shall determine whether a qualifying party that qualifies the business licensee complied with R4 29-504(I). If the business licensee determines that the qualifying party has yet to comply with R4 29-504(I), the business licensee shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:~~
- ~~1. Death or illness of an individual or animal;~~
 - ~~2. Contamination of food, feed, drugs, or water supply;~~
 - ~~3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or~~
 - ~~4. Contamination of the environment that results in evacuation of the area.~~
- ~~D. A business licensee shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A business licensee shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.~~

ARTICLE 4. SUPERVISION

~~R4-29-502, R4-29-401.~~ Supervising an Applicator

- ~~A.~~ A qualifying party shall ensure that every applicator, whether licensed or unlicensed, is trained and equipped to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.
- ~~B.~~ A qualifying party shall provide the supervision necessary for an applicator, whether licensed or unlicensed, to comply with all of the duties and responsibilities required under the Commission's statutes, this Chapter, and label and labeling directions.
- A. A QP and business licensee shall ensure that an applicator receives the training, equipment, and supervision that the applicator requires to comply fully with the OPM's statutes, this Chapter, and label and labeling directions.
- B. A QP shall be readily available to an applicator while the applicator provides pest management services.
- C. A ~~qualifying party~~ QP shall ensure that the use, application, storage, or disposal of a pesticide is performed or supervised by an individual ~~licensed~~ certified in the a category applicable to the pesticide being used, applied, stored, or disposed.
- D. A ~~qualifying party~~ QP shall ensure that immediate supervision, which requires supervision by a ~~licensed~~ certified applicator who is physically present, is provided when an ~~unlicensed~~ uncertified applicator ~~applies a pesticide for wood-destroying insect control, provides a fumigation service, or applies a restricted use pesticide~~ performs pest management services in the wood-destroying organism, aquatic, or fumigation category, uses a restricted use pesticide, or uses a pesticide under an experimental use permit. A ~~qualifying party~~ QP shall ensure that a ~~licensed~~ certified applicator provides immediate supervision to ~~only one unlicensed applicator~~ not more than two uncertified applicators at a time.
- E. In circumstances other than those described in subsection (D), a ~~qualifying party~~ QP shall ensure that direct supervision, which does not require a supervising ~~licensed~~ certified applicator to be physically present, is provided. A ~~qualifying party~~ QP shall ensure that a ~~licensed~~ certified applicator providing direct supervision considers the potential danger to the public or environment if the ~~unlicensed~~ uncertified applicator misuses a pesticide. A ~~qualifying party~~ QP shall ensure that a ~~licensed~~ certified applicator providing direct supervision instructs the ~~unlicensed~~ uncertified applicator in the following areas and has written evidence that the instruction was provided and understood:
 1. Proper loading, mixing, applying, storing, and disposing of the pesticide;
 2. Use of required safety equipment; and
 3. Method and means by which to contact the supervisor immediately.
- F. A QP shall ensure that an applicator has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the OPM's statutes and this Chapter. The QP shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.
- G. A QP, business licensee, and political subdivision shall not allow an uncertified applicator to apply a pesticide for more than 90 days after the applicator is registered.

~~R4-29-503, R4-29-402.~~ Qualifying a Business Licensee or Political Subdivision

- A. A business licensee or political subdivision shall employ a QP in each category of pest management in which the business licensee or political subdivision provides pest management services. A business licensee or political subdivision may employ multiple QPs.
- B. A ~~qualifying party~~ QP may not qualify ~~only~~ more than one business ~~license~~ licensee or political subdivision at a time.
- C. Notwithstanding subsection (B), the director may allow a QP to qualify more than one political subdivision if the director believes that the number of applicators, pest management needs, and distance of the political subdivisions will not hinder the QP's ability to comply with R4-29-403.

- ~~D.~~ A ~~qualifying party QP~~ may only qualify ~~the one business license~~ a business licensee or political subdivision in each category ~~the categories~~ of pest management in which the ~~qualifying party has an active license~~ QP is registered.

~~R4-29-504. R4-29-403. Qualifying Party Management~~

- ~~A.~~ A qualifying party shall ensure that an applicator employed by the business licensee, whether licensed or unlicensed, receives the supervision and training that the applicator requires to comply fully with the Commission's statutes and this Chapter and label and labeling directions.
- ~~B.~~ A qualifying party who supervises the use, application, storage, or disposal of a pesticide shall hold an applicator license in the category applicable to the pesticide being used, applied, stored, or disposed.
- ~~C.~~ A qualifying party shall not allow an unlicensed applicator to apply a pesticide for more than 90 days of employment. A qualifying party shall not allow a licensed applicator to apply a pesticide in a category for which the applicator is not licensed for more than 30 days.
- ~~D.~~ A qualifying party shall ensure that an applicator employed by the business licensee has the protective clothing, safety supplies, and equipment specified by the label or labeling of each product used by the applicator and by the Commission's statutes and this Chapter. The qualifying party shall ensure that the applicator is instructed regarding how to use, maintain, clean, and store the protective clothing, safety supplies, and equipment.
- ~~E.~~ A qualifying party shall be readily available to an applicator employed by the business licensee while the applicator provides pest management services.
- ~~F.A.~~ To be active in the management of the licensed business that the qualifying party is qualifying, a A qualifying party QP shall be physically present at the primary business office at least once every 30 14 days and at each branch office at least once every 120 days and ensure that all of the following are done:
1. Determine pesticide use by reviewing records of pesticide acquisitions, storage, disposal, and current inventory;
 2. Review the pesticide inventory, including pesticides stored on a service vehicle, to determine compliance with labels, labeling, and the Commission's OPM's statutes and rules;
 3. Review the training, supervision, and equipping of applicators employed by the business licensee licensee or political subdivision to determine whether the training, supervision, and equipping is sufficient to enable the applicators to comply with labels, labeling, and the Commission's OPM's statutes and rules;
 4. Review personnel records to determine whether an applicator employed by the business licensee licensee or political subdivision is licensed registered and certified in all applicable categories within the time-frames specified by A.R.S. § 32-2312 R4-29-201;
 5. Review office records and recordkeeping procedures to determine compliance with required recordkeeping and reporting; and
 6. Ensure that any deficiency noted when the responsibilities listed in subsections ~~(F)(4)~~ (A)(1) through ~~(F)(5)~~ (A)(5) are performed is corrected.
- ~~G.B.~~ A ~~qualifying party QP~~ shall develop a written plan that specifies how the duties and responsibilities of the ~~qualifying party QP~~ are to be fulfilled if the ~~qualifying party QP~~ is absent or unavailable for any reason. The ~~qualifying party QP~~ shall ensure that the plan is implemented when the ~~qualifying party QP~~ is absent or unavailable.
- ~~H.C.~~ A ~~qualifying party QP~~ shall not delegate the responsibility to be physically present at least every 30 14 days at the primary business office of the licensed business the qualifying party is qualifying and at least every 120 days at branch offices unless the ~~qualifying party QP~~ submits written documentation to the Commission OPM from a licensed medical or mental health care professional that indicates the licensed medical or mental health care professional is treating the ~~qualifying party QP~~ and is of the opinion that the ~~qualifying party QP~~ is unable to fulfill the responsibility to be physically present at least every 30 days as required.

- ~~I. Notice to Commission of an incident. A qualifying party shall determine whether the business licensee qualified by the qualifying party complied with R4 29 605(C). If the qualifying party determines that the business licensee has yet to comply with R4 29 605(C), the qualifying party shall provide written notice to the Commission within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee:~~
- ~~1. Death or illness of an individual or animal;~~
 - ~~2. Contamination of food, feed, drugs, or water supply;~~
 - ~~3. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or~~
 - ~~4. Contamination of the environment that results in evacuation of the area.~~
- D. A QP shall:**
1. Be active in the management of all pest management related activities of the business licensee or political subdivision.
 2. During normal business hours, be readily available to the applicators of the business licensee or political subdivision.
 3. Ensure that a business licensee maintains current proof of financial security.
- E. A temporary QP has the same duties and responsibilities as a regular QP.**

R4-29-404. Branch Supervisors

With respect to a branch office, the branch supervisor shall fulfill all the duties and responsibilities of a QP in this Article, except as follows:

1. The branch supervisor shall be present at the branch office at a minimum of once every 14 days to review pesticide use, storage and disposal and by ensuring the training, equipping, and supervision of the employees.
2. The branch office may operate in each category of pest management in which the QP is registered even if the branch supervisor is not a certified applicator in the category, though R4-29-201(C) still applies.
3. The branch supervisor is not responsible for ensuring that the business licensee maintains current proof of financial security.

R4-29-603.R4-29-405. Supervision of Qualifying Party

A business licensee or political subdivision shall ensure that a ~~qualifying party~~ QP of the business licensee or political subdivision receives the ~~supervision and training~~ training, equipment, and supervision that the ~~qualifying party~~ QP requires to comply fully with the Commission's OPM's statutes and rules and label and labeling directions.

ARTICLE 5. RECORDKEEPING AND REPORTING

~~R4-29-307~~**R4-29-501. Applicator Recordkeeping**

- A. An applicator shall ~~timely~~ make all records required by law and provide the records to the business licensee or political subdivision that employs the applicator within five business days. ~~Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.~~
- B. Service records. An applicator shall make a record of each pest management service provided. The applicator shall include the following information in the service record:
1. Name and address of the customer;
 2. Specific site at which a pesticide was applied;
 3. Date of service;
 4. Target pest or purpose of service;
 5. Trade name ~~or common name~~ of pesticide applied;
 6. EPA registration number of any ~~restricted-use~~ pesticide applied;
 7. ~~Percent active ingredient in the pesticide as applied;~~
 8. ~~7.~~ Amount of pesticide applied in volume of granular material, volume of liquid mixture, or number of traps; and
 9. ~~8.~~ Name and ~~license~~ certification number of the applicator or if the applicator is ~~unlicensed~~ uncertified, name of the ~~unlicensed~~ uncertified applicator and the name and ~~license~~ certification number of the applicator providing supervision.
- C. Pesticide purchase records. An applicator shall make a record of each restricted-use pesticide purchased or otherwise acquired. The applicator shall include the following information in the pesticide purchase record:
1. Date of purchase or acquisition;
 2. Trade name ~~or common name~~ of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide purchased or acquired; and
 5. Name and license number of the applicator making the pesticide purchase record or name of the business licensee.
- D. Pesticide disposal records. An applicator shall make a record of each ~~restricted-use~~ pesticide disposed, sold, lost, or otherwise relinquished. The applicator shall include the following information in the pesticide disposal record:
1. Date of disposal;
 2. Trade name ~~or common name~~ of pesticide;
 3. EPA registration number of pesticide;
 4. Quantity of pesticide disposed;
 5. ~~Name of the active ingredient in the pesticide disposed;~~
 6. ~~5.~~ Percent active ingredient in the pesticide disposed,
 7. ~~6.~~ Method of disposal,
 8. ~~7.~~ Location and type of disposal site or service; and
 9. ~~8.~~ Name and license number of the applicator making the pesticide disposal record or name of the business licensee.
- E. WDIIR. An applicator who completes a wood-destroying insect inspection shall:
1. Complete a WDIIR, using a form approved by the ~~Commission~~ OPM. A trademark or logo may be placed on the WDIIR if it does not alter the format or substance of the ~~Commission-approved~~ OPM-approved form;
 2. Submit an original WDIIR to the ~~business licensee~~ QP or branch supervisor within seven days after completing the wood-destroying insect inspection;
 3. Submit a supplemental WDIIR to the ~~business licensee~~ QP or branch supervisor within seven days after completing a supplemental wood-destroying insect inspection to verify that a corrective

- treatment was performed or a condition conducive was corrected. The applicator shall include the original inspection number on the supplemental WDIIR;
4. If required by ~~another state or a~~ federal agency, complete another ~~WDIIR inspection form~~ in addition to but not instead of the ~~Commission-approved~~ OPM-approved WDIIR; and
 5. Ensure that the following information is included on the WDIIR:
 - a. Name, address, telephone number, and license number of business licensee. This information may be pre-printed on the WDIIR;
 - b. Date of wood-destroying insect inspection, and the WDIIR number;
 - c. Purpose of the inspection report;
 - d. Whether the report is from an original or supplemental inspection;
 - e. Name of property owner or seller;
 - f. Address of inspected property;
 - g. Inspected and un-inspected structures at the site;
 - h. Areas of the structure not inspected because they were obstructed or inaccessible and the cause of the obstruction or inaccessibility;
 - i. Whether visible evidence of wood-destroying insects is observed;
 - j. Whether visible evidence of infestation from wood-destroying insects is observed and if so, the date on which a proper ~~control~~ management measure is performed, if applicable;
 - k. Whether visible damage from wood-destroying insects is observed and if so, the insect causing the damage and the areas in which the damage is observed;
 - l. Whether visible evidence of previous treatment is observed and if so, the nature of the evidence;
 - m. If damage from wood-destroying insects is observed, whether or when the damage will be corrected and whether the damage will be corrected by the business licensee or another company;
 - n. Visible conditions conducive to infestation by wood-destroying insects;
 - o. Diagram or graph of the structure clearly indicating wood-destroying insects, damage, conducive conditions observed, and areas where further inspection is recommended, and a statement or indication on the diagram or graph clearly identifying inaccessible areas; and
 - p. Dated signature and ~~license~~ certification number of the individual making the inspection. The individual making the inspection shall sign the WDIIR by hand or electronically and shall not use a signature stamp or allow another individual to affix the signature.
 - F. Wood-destroying ~~insect~~ organism treatment proposal. An applicator who is qualified under A.R.S. § 32-2323(B) and (E) shall complete a wood-destroying ~~insect~~ organism treatment proposal using a form approved by the ~~Commission~~ OPM and provide a copy of the proposal to the person requesting the proposal ~~or treatment~~ and the ~~business licensee~~ QP.
 - ~~G. Upon written request by the Commission, an applicator shall make the records required under this Section available for review by the Commission. The applicator from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The applicator shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The applicator shall be available to interpret the submitted records if requested by the Commission.~~
 - ~~H. If an applicator cannot timely comply with a request made under subsection (G), the applicator shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
 - ~~I. The Commission shall:~~
 1. ~~Modify the request made under subsection (G) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~

2. ~~Provide additional time to respond to the request made under subsection (G) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~

~~J. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

~~R4-29-505, R4-29-502. Qualifying Party Recordkeeping~~

- ~~A. In addition to ensuring that the records required under ~~R4-29-307~~ R4-29-501 are made, a qualifying party QP shall ensure that complete records are made and maintained of the training, supervision, and equipping provided to an applicator. ~~Under A.R.S. § 32-2321(B)(2), making a false or fraudulent record or report is grounds for disciplinary action.~~~~
- ~~B. Upon written request by the Commission, a qualifying party shall make the records required under this Section available for review by the Commission. The qualifying party from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The qualifying party shall make the records available at the Commission office by hand delivery, electronic mail, mail, or fax. The qualifying party shall be available to interpret the submitted records if requested by the Commission.~~
- ~~C. If a qualifying party cannot timely comply with a request made under subsection (B), the qualifying party shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- ~~D. The Commission shall:~~
 - ~~1. Modify the request made under subsection (B) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~
 - ~~2. Provide additional time to respond to the request made under subsection (B) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- ~~E. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~
- ~~B. At a minimum, QP training records must consist of the following information:~~
 - ~~1. Date of the training.~~
 - ~~2. Printed name and signature of the trainee.~~
 - ~~3. Printed name and signature of the trainer.~~
 - ~~4. Brief description of topic(s) covered, and~~
 - ~~5. Copies of labels and any other pertinent material used in training.~~
- ~~C. A QP shall maintain the records described in this section for three years after the applicator's employment ending date.~~

~~R4-29-609, R4-29-503. Business Licensee and Political Subdivision Recordkeeping and Retention~~

- ~~A. In addition to ensuring that the records required under ~~R4-29-307~~ and ~~R4-29-505~~ R4-29-501 and R4-29-502 are made and maintained, a business licensee and political subdivision shall make and maintain records of the following:~~
 - ~~1. The specimen label and MSDS for each registered pesticide currently used by an applicator employed by the business licensee or political subdivision;~~
 - ~~2. The financial responsibility required under ~~R4-29-605(A)~~; R4-29-310(A), if applicable;~~
 - ~~3. Purchase records of each pesticide purchased or otherwise acquired that include the following information:~~
 - ~~a. Date of purchase or acquisition;~~
 - ~~b. Trade name ~~or common name~~ of pesticide;~~
 - ~~c. Quantity of pesticide purchased or acquired; and~~
 - ~~d. Name of the business licensee;~~
 - ~~4. Date on which a service vehicle or trailer is acquired;~~

5. Incident reports submitted to the ~~Commission~~ OPM as required under ~~R4-29-504(I) or R4-29-605(C)~~ R4-29-504;
 6. A pest management service provided ~~to a customer~~, including a service provided under a warranty;
 7. The evidence of customer refusal of a re-treatment or post-construction treatment required under ~~R4-29-608(J)~~ R4-29-309(J);
 8. Written inspection reports;
 9. ~~Customer~~ Business licensee contracts for pest management services; and
 10. Personnel records including for each employee of the business ~~licensee~~; licensee or political subdivision:
 - a. Date of hire;
 - b. Date on which pest management services are first performed;
 - c. Copy of license certification issued by the ~~Commission~~ OPM;
 - d. Training and continuing education received;
 - e. Supervision received;
 - f. Protective clothing, safety supplies, and equipment issued to employee;
 - g. Name of supervisor; ~~and~~
 - h. Employment ending ~~date~~, date; and
 - i. W-2 tax records.
- B.** A business licensee or political subdivision shall maintain the records as follows:
1. Records under subsection (A)(1), as long as the registered pesticide is used by the business licensee or political subdivision. The business ~~licensee~~ licensee or political subdivision shall maintain the records required under subsection (A)(1) at the primary business office or branch office from which the registered pesticide is used or at which the registered pesticide is stored;
 2. Records under subsection (A)(2), current;
 3. Records under subsection (A)(3) or ~~R4-29-307(C)~~ R4-29-501(C) and (D), three years from the date of purchase or disposal ~~if the pesticide is not used in wood-destroying insect control and five years if the pesticide is used in wood-destroying insect control~~;
 4. Records under subsection (A)(4), as long as the service vehicle or trailer is owned by the business licensee or political subdivision;
 5. Records under subsection (A)(5), until the statute of limitation for possible legal action resulting from the incident is expired or until resulting legal action is completed;
 6. Records under subsection (A)(6), three years except five years for a pest management service involving wood-destroying ~~insect control~~ organism management or wood-destroying insect ~~or fungi~~ inspection;
 7. Records under subsection (A)(7), ~~five~~ three years;
 8. Records under subsections (A)(8) and (A)(9), three years from the date on the inspection report or customer contract;
 9. Records under subsection (A)(10), three years after the employment ending date;
 10. WDIIRs completed under subsection (C), ~~five~~ three years. The business licensee shall consecutively number the WDIIRs and:
 - a. Maintain them in consecutive order; or
 - b. Maintain them in a different order and maintain a list of the WDIIRs in consecutive order that includes the date of the inspection and the heading under which each WDIIR is filed; and
 11. Records under subsections (A)(5) and (A)(6) that pertain to the use of a restricted-use pesticide shall be maintained separate from other records.
- C.** When an applicator employed by a business licensee submits a WDIIR, the business licensee shall record the following on the WDIIR:
1. TARF number,
 2. If the business licensee has the property under warranty:
 - a. Account number,

- b. Target pest,
- c. Date of initial treatment,
- d. Date of warranty expiration, and
- 3. The TARF number of each TARF completed regarding the property after the WDIIR is completed.

D. TARF. A business licensee or political subdivision shall:

- 1. Submit to the ~~Commission~~ OPM a TARF, using a form approved by the ~~Commission~~ OPM, within 30 days of completing ~~a termite~~ an action specified under subsection (D)(3). For the purpose of reporting, a pretreatment or new-construction treatment is complete when no further preventative treatment is necessary until the ~~final-grade~~ final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier. In a multiple-unit project, a pretreatment or new-construction is complete when no further preventative treatment is necessary for the last unit at the project until the ~~final-grade~~ final grade treatment unless it is necessary to re-treat a disturbed continuous chemical barrier;
- 2. Include the fee ~~specified under R4-29-105(D)~~ with each TARF and, if applicable, the penalty required under ~~R4-29-105(E)~~ R4-29-103;
- 3. Unless exempt under subsection (D)(4), submit a TARF after completing each of the following:
 - a. Pretreatment, including pretreatment of an addition that does not abut the slab of a previously pretreated structure;
 - b. New-construction treatment, including new-construction treatment of an addition that does not abut the slab of a previously new-construction treated structure;
 - c. ~~Final-grade~~ Final grade treatment;
 - d. First corrective ~~termite~~ wood-destroying insect treatment at a site; and
 - e. Wood-destroying insect inspection.
- 4. Not submit a TARF after completing the following: first
 - ~~a. First corrective termite wood-destroying insect treatment at a site if the business licensee:~~
 - ~~i. a. Performed a pretreatment or new-construction treatment at the site,~~
 - ~~ii. b. Filed a TARF regarding the pretreatment or new-construction treatment, and~~
 - ~~iii. c. Performs the first corrective treatment under R4-29-608(D) R4-29-309(D) or under a warranty; or warranty.~~
 - ~~b. Pretreatment or new construction treatment of an addition that abuts the slab of an originally treated structure if the business licensee:~~
 - ~~i. Performed the pretreatment or new construction treatment of the main structure,~~
 - ~~ii. Filed a TARF regarding the pretreatment or new construction treatment,~~
 - ~~iii. Has the structure under warranty, and~~
 - ~~iv. Treats the abutting addition under the terms of the site warranty.~~
- 5. Include the information required under A.R.S. § ~~32-2304(A)(13)~~ 32-2322 and the following on a TARF:
 - a. License number of the licensed business that performed the work;
 - b. ~~License number~~ Name of the ~~qualifying party~~ QP that ~~qualifies the licensed business in category B2 or B8, as applicable;~~
 - c. For a wood-destroying insect inspection, indicate whether:
 - i. There was evidence of infestation, conditions conducive to infestation, or damage present;
 - ii. ~~Treatment~~ Previous treatment was performed for an infestation; and
 - iii. Corrective actions were taken for conditions conducive or damage present;
 - d. For a pretreatment, new-construction treatment, or ~~post-construction preventative~~ final grade treatment to establish an exterior vertical barrier, indicate:
 - i. Chemical used and its EPA registration number,
 - ii. Amount of chemical used,
 - iii. Percentage of active ingredient in the chemical used, and

- iv. Square and linear footage treated; and
- e. For a post-construction corrective termite treatment, indicate:
 - i. Type of treatment,
 - ii. Target organism,
 - iii. Chemical used and its EPA registration number,
 - iv. Amount of chemical used, and
 - v. Percentage of active ingredient in the chemical used.
- ~~E. If the Commission requests a record from a business licensee as a result of the Commission determining there is an emergency endangering the health or safety of an individual, animal, or the environment, the business licensee shall provide the record to the Commission within one hour.~~
- ~~F. Upon written request by the Commission, a business licensee shall make the records required under this Section available for review by the Commission. The business licensee from whom records are requested shall make the records available to the Commission within 24 hours or by a later date specified by the Commission. The business licensee shall make the records available at the Commission office by hand delivery, electronic mail or fax. The business licensee shall be available to interpret the submitted records if requested by the Commission.~~
- ~~G. If a business licensee cannot timely comply with a request made under subsection (F), the business licensee shall immediately provide written notice to the Commission, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.~~
- ~~H. The Commission shall:~~
 - ~~1. Modify the request made under subsection (F) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~
 - ~~2. Provide additional time to respond to the request made under subsection (F) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- ~~I. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

R4-29-504. Reporting Incidents and Bulk Releases

A. Notice to OPM of an incident.

- 1. A business licensee and political subdivision shall provide written notice to the OPM within one business day after one of the following incidents is confirmed by medical personnel or an applicable regulatory agency to be caused by a pesticide applied by the business licensee or political subdivision:
 - a. Death or illness of an individual;
 - b. Contamination of food, feed, drugs, or water supply;
 - c. Contamination of a structure that results in the hospitalization of an occupant or evacuation of the structure; or
 - d. Contamination of the environment that results in evacuation of the area.
- 2. A QP shall determine if the business licensee or political subdivision has complied with subsection (A)(1). If compliance has not occurred, the QP shall provide the written notice required by subsection (A)(1) to the OPM within the time-frame specified in subsection (A)(1).

B. Notice to OPM of a bulk release.

- 1. A business licensee or political subdivision shall notify the OPM at the Pesticide Hotline, 1-800-423-8876, as soon as practical after a bulk release, but no later than three hours after the bulk release. If the bulk release is on a public highway or railway, or results in the death of an individual, the person shall immediately report the release to the Arizona Department of Public Safety Duty Office.

2. A QP shall determine if the business licensee or political subdivision has complied with subsection (B)(1). If compliance has not occurred, the QP shall provide the notices specified in subsection (B)(1) within one business day after the release.

R4-29-505. Groundwater Protection List Reporting

- A.** For each application of a soil-applied pesticide containing an active ingredient that appears on the Arizona Department of Environmental Quality groundwater protection list and has been detected in Arizona within the last five years, the QP shall submit the following information on a quarterly basis on a form approved by the OPM:
 1. The county of use,
 2. The name of product used and the EPA registration number,
 3. The amount applied,
 4. The dates covered by the report, and
 5. Business license number.
- B.** For the purposes of this section, “soil-applied pesticide” means a pesticide intended for application to or injection into the soil or for which the label requires or recommends that the application be followed within seventy-two hours by irrigation. Soil-applied pesticides include pesticides applied for final grade treatment, post-construction exterior trench or rod treatment, or pre-emergent weed control, but exclude pesticides applied at or above grade or within the stem wall or footer of a structure.

~~ARTICLE 5. QUALIFYING PARTY DUTIES AND RESPONSIBILITIES~~

~~R4-29-501. Compliance with Applicator Duties and Responsibilities~~
~~REPEAL~~

~~ARTICLE 6. BUSINESS LICENSEE DUTIES AND RESPONSIBILITIES~~

~~R4-29-601. Compliance with Applicator Duties and Responsibilities~~
~~REPEAL~~

~~R4-29-604. Qualifying Party Required~~
~~REPEAL~~

~~ARTICLE 7. 6. INSPECTIONS; INVESTIGATIONS; COMPLAINTS; DISCIPLINARY PROCEDURES~~

~~R4-29-701. General Provisions~~
~~REPEAL~~

~~R4-29-702. Inspections, Investigations, and Complaints~~
~~REPEAL~~

~~R4-29-703. Settlement Conferences~~
~~REPEAL~~

~~R4-29-704. Consent Agreements~~
~~REPEAL~~

~~R4-29-705. Hearing Procedures~~
~~REPEAL~~

~~R4-29-706. Review or Rehearing of a Commission Decision~~
~~REPEAL~~

~~R4-29-707. Judicial Review of Commission Order~~
~~REPEAL~~

~~R4-29-708. Disciplinary Action~~
~~REPEAL~~

R4-29-601. Inspection of Licensee Records

A. Upon written request by the OPM for the production of records, an applicator, OP, branch supervisor, business licensee, or political subdivision shall:

- 1. Make the records required under this Chapter available for review by the OPM within 24 hours or by a later date specified by the OPM.**
- 2. Make the records available at the OPM unless another location is agreed upon.**
- 3. Be available to interpret the submitted records if requested by the OPM.**

B. If a person cannot timely comply with a request made under subsection (A), the person shall immediately provide written notice to the OPM, indicate the reason for noncompliance, and request

greater specificity regarding the information to be made available or additional time in which to comply.

- C. If the OPM requests a record from a business licensee or political subdivision when there may be an immediate risk to the health or safety of an individual, non-target animal, or the environment, the business licensee or political subdivision shall provide the record to the OPM within one hour.
- D. An applicator or branch supervisor is only responsible for producing records within the applicator's or branch supervisor's control.

R4-29-301, R4-29-602. **Compliance with Commission OPM Monitoring**

- ~~A. For the purpose of monitoring the provision pest management services, the Commission may make~~ If the OPM makes a written request of an applicator for a list of the time and location of pest management services that the applicator is scheduled to provide on a specified date that is at least 24 hours from the time of the request.
- ~~B. The date, the applicator from whom information is requested under subsection (A) shall make the information available to the Commission within 24 hours after the request is made. The applicator may make the information available at the Commission office by hand delivery or fax or at another location acceptable to the Commission in a manner prescribed by the OPM.~~
- ~~C.B.~~ If an applicator cannot timely comply with a request made under subsection (A), the applicator shall immediately provide written notice to the Commission, OPM, indicate the reason for noncompliance, and request greater specificity regarding the information to be made available or additional time in which to comply.
- ~~D. The Commission shall:~~
 - ~~1. Modify the request made under subsection (A) if the Commission determines that the request lacks specificity necessary for a reasonable person to understand what is requested, or~~
 - ~~2. Provide additional time to respond to the request made under subsection (A) if the Commission determines the information requires more time to obtain and the request for more time is not solely for delay.~~
- ~~E. Under A.R.S. § 32-2321(B), failure to comply with this Section is grounds for disciplinary action.~~

R4-29-603. **Corrective Work Orders**

- A. If the OPM issues a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this Chapter or the OPM's statutes, the licensee shall notify the OPM in writing by the date specified in the order that the corrective work is complete.
- B. The director may consider a licensee's compliance with a corrective work order or lack thereof in imposing appropriate disciplinary action.
- C. Failure to timely complete the corrective action or notify the OPM of the completion is a separate ground for disciplinary action.
- D. A corrective work order issued by the OPM is not subject to A.R.S. § 41-1009(E)-(F) unless the OPM indicates in the order that timely compliance with the order will result in no disciplinary action being taken for a deficiency or violation.

R4-29-604. **Disciplinary Action**

To determine the disciplinary action that is appropriate, the Director may consider the following:

- 1. Prior violations,
- 2. Dishonest or self-serving motive,
- 3. Amount of experience as a licensee,
- 4. Submission of false evidence or statements or other deceptive practices during the investigative or disciplinary process,
- 5. Acknowledgement of wrongful nature of violation,
- 6. Practices put in place to prevent a similar violation from occurring again,
- 7. Compliance with a corrective work order,

8. Degree of harm resulting from the violation, and
9. Whether harm resulting from the violation was cured.

R4-29-605. Consent Agreements

- A.** A consent agreement shall include the following:
 1. General nature of violations,
 2. Citation to statutes and rules alleged to be violated,
 3. Disciplinary action to be taken,
 4. Effective date of the disciplinary action if different from the date of the consent agreement,
 5. Corrective action to be taken, and
 6. Date to complete any corrective action.
- B.** A person entering into a consent agreement with the OPM shall waive the right to a formal hearing, rehearing, or judicial review of the matters contained in the consent agreement.

R4-29-606. Penalties

- A.** When assessing a civil penalty for a violation, the Director shall assess a civil penalty for each violation based on the violation's total point value set out in this section. To calculate the total point value, the Director shall sum the points for each aggravating factor and may subtract the points for each mitigating factor. The Director, in his sole discretion, may treat multiple violations as a single violation for the purpose of calculating the civil penalty.

B. Aggravating factors.

1. Pesticide type.
 - a. General use. 2
 - b. Experimental use or special local need. 3
 - c. Restricted use or unregistered. 5
2. Harm to humans and non-target animals.
 - a. None or unverified potential harm. 0
 - b. Potential harm. 3
 - c. Actual, verifiable harm. 5
3. Harm to environment and economic loss.
 - a. None or unverified potential harm. 0
 - b. Potential harm or loss. 3
 - c. Actual, verifiable loss of \$10,000 or less. 4
 - d. Actual, verifiable loss exceeding \$10,000. 5
 - e. Actual, verifiable environmental harm. 5
4. Non-pesticide violations.
 - a. Negligent violations. 4
 - b. Knowing or willful violations. 8
5. Prior similar violations.
 - a. None. 0
 - b. Warning letter within 12 months. 1
 - c. One or more within 36 months,
but none within 12 months. 2
 - d. One within 12 months. 3
 - e. More than one within 24 months,
but none within 12 months. 4
 - f. More than one within 12 months. 5
6. Culpability.
 - a. Negligent violations. 2
 - b. Knowing or willful violations. 4

C. Mitigating factors. In considering whether to subtract points for mitigating factors, the Director may consider whether the mitigating act occurred before, during, or after OPM's investigation.

1. Good will.
 - a. Admission of fault. 1
 - b. Admission and cooperation 2
 - c. Admission, cooperation, and corrective action prior to request. 3
2. Environmental benefit.
 - a. Clean up. 1
 - b. Move toward less toxic methods. 2
 - c. Develop IPM program. 3
3. Consumer benefit.
 - a. Consumer education. 1
 - b. Make consumer whole. 2
 - c. Extend warranty. 3
4. Other benefits.
 - a. Training (CEU). 1
 - b. Equipment (modification or new). 2
 - c. Purchase and use of computer for TARFs. 3

D. Civil penalty. To calculate the civil penalty, the Director shall:

1. For total point values of 6-10, multiply the value by \$100 and then subtract \$500.
2. For total point values of 11-15, multiply the value by \$100 and then subtract \$600.
3. For total point values of more than 16, assess the maximum penalty of \$1000.

E. Other penalties. In addition to assessing a civil penalty, the Director:

1. For any total point value, may require extra continuing education.
2. For total point values of 6-11, may impose probation requirements.
3. For total point values of 12-17, shall impose probation requirements and may suspend the license, certification, or registration.
4. For total point values of 18 or more, shall suspend or revoke the license, certification, or registration.
5. May take any other action permitted by law.

Golf Course Rule Changes

Title 3. Agriculture
Chapter 3. Department of Agriculture
Environmental Services Division

R3-3-101. Definitions

"Certified applicator" means any individual who is certified by the department to use or supervise the use of any restricted use pesticide or to use any pesticide on a golf course.

"Golf applicator" means a certified applicator who uses a pesticide for the maintenance of a golf course that is owned or controlled by the applicator or the applicator's employer.

"Regulated grower" means a person who acquires or purchases pesticides or contracts for the application of pesticides to agricultural ~~commodities or~~ commodities, onto an agricultural establishment, or onto a golf course as a part of the person's normal course of employment or activity as an owner, lessee, sublessee, sharecropper, or manager of the land to which the pesticide is applied.

R3-3-201. Regulated Grower Permit; Fee

- A. A regulated grower shall not order, purchase, take delivery of, use, or recommend the use of any pesticide for an agricultural purpose or a golf course without a valid regulated grower permit, issued by the Department.
- B. A person applying for a regulated grower permit, initial or renewal, shall provide the following information on a form obtained from the Department:
 - 1. Name, signature, and social security or employer's identification number of the applicant;
 - 2. Date of the permit application;
 - 3. Name, address, e-mail address, if applicable, and daytime telephone number of the company or farm where the applicant may be reached;
 - 4. Permit renewal period; and
 - 5. Sections, townships, ranges, and acres of the land where pesticides may be applied.
- C. The applicant shall submit the completed application to the Department accompanied by a \$20 fee for each year or portion of the year during which the permit is valid.
- D. A regulated grower permit is not transferable, expires on December 31, and is valid for one or two years depending on the renewal period selected by the applicant.

R3-3-202. Core Examination

- A. In addition to other requirements prescribed by this Article, an individual seeking any of the following shall obtain a score of at least 75 percent on a written core examination administered by the Department:
 - 1. Designation as a responsible individual;
 - 2. An initial license as:
 - a. An agricultural aircraft pilot;
 - b. A custom applicator;
 - c. An agricultural pest control advisor; or
 - 3. An initial certification as:
 - a. A private applicator; ~~or~~
 - b. A commercial ~~applicator.~~ applicator; or
 - c. A golf applicator.
- B. The Department shall administer examinations by appointment at every Environmental Services Division office. The Department shall ensure that the examination tests the knowledge and

understanding of the following subjects that are described in more detail at Appendix A, subsections (A) and (C):

1. Pesticide use, safety, and toxicity;
2. Pesticide labels and labeling;
3. Pesticide terminology;
4. Common causes of accidents;
5. Necessity for protective equipment;
6. Poisoning symptoms;
7. Practical first aid; and
8. Statutes and rules relating to the sale, application, and use of pesticides.

- C. An individual who fails the examination may retake the examination no more than three times in a 12-month period and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

R3-3-208. Applicator Certification; Examination; Fee; Renewal

- A. An individual shall not act as a private ~~applicator~~ applicator, golf applicator, or commercial applicator unless the individual is certified by the Department.

- B. Application. An individual applying for either ~~commercial~~ commercial, golf, or private applicator certification shall pay a ~~\$50~~ the applicable fee and submit a completed application to the Department containing the following information on a form obtained from the Department:

1. The applicant's name, address, e-mail address if applicable, daytime telephone number, Social Security number, and signature;
2. Date of the application;
3. Name, physical address, mailing address, e-mail address, if applicable, and daytime telephone number of the applicant's employer, if applicable;
4. Whether the application is for a ~~commercial~~ commercial, golf, or private applicator certification;
5. If applicable, an indication the applicant seeks private applicator fumigation certification;
6. If applicable, an indication the applicant seeks golf applicator aquatic certification;
7. For commercial certification, the categories in which the applicant seeks to be certified;
8. Whether the applicant has had a similar certification revoked, suspended, or denied in this or any other jurisdiction during the last three years, and the nature of the violation; and
9. Certification renewal period.

- C. Private applicator fumigation certification.

1. Fumigation certification requires certification as a private ~~applicator~~ applicator, a golf applicator, or a commercial applicator.
2. Fumigation certification allows a private applicator or a commercial applicator acting as a private applicator to use, apply, or supervise the use or application of a fumigant to an on-farm raw agricultural commodity or on-farm burrowing rodent problem.
3. Fumigation certification allows a golf applicator to use and apply a fumigant to a golf course burrowing rodent problem.

- D.** Golf applicator aquatic certification allows a golf applicator to use or apply an aquatic pesticide to a body of water on a golf course to control an aquatic pest problem.

- ~~D.E.~~** Examinations. The Department shall administer examinations by appointment at every Environmental Services Division office. An applicant shall achieve a passing score of 75 percent in the applicable subject area in order to receive initial certification.

1. Commercial applicator certification (PUC). In addition to the core examination required by R3-3-202, an applicant shall demonstrate knowledge and understanding of the subjects listed in Appendix A, subsection (B) for each commercial certification category sought.
2. Commercial certification categories. An individual may apply for commercial applicator certification in any of the following categories:
 - a. Agricultural pest control;

- b. Forest pest control;
 - c. Seed-treatment;
 - d. Aquatic pest control;
 - e. Right-of-way pest control;
 - f. Public health pest control;
 - g. Regulatory pest control: M-44 or rodent, if a government employee; or
 - h. Demonstration and research pest control.
- 3. Private applicator (PUP) and golf applicator (PUG) certification ~~(PUP)~~. An applicant shall demonstrate knowledge and understanding of the core examination subjects listed in R3-3-202.
 - 4. Fumigation certification. An applicant seeking private applicator fumigation certification shall also pass a separate fumigation examination.
 - 5. Aquatic certification. An applicant seeking aquatic certification shall also pass a separate aquatics examination.
 - 6. An individual who fails an examination may retake it no more than three times in a 12-month period, and shall not retake an examination until at least seven days have elapsed from the date of the last examination.

F. Fee.

- 1. An applicant for private or commercial certification shall pay a \$50 fee per year of certification.
- 2. An applicant for golf certification shall pay a \$100 fee per year of certification.

E.G. Applicator certification is not transferable, expires on December 31, and is:

- 1. Issued for the remainder of the calendar year as an initial certification;
- 2. Renewed for one or two years, depending on the renewal period selected by the applicant; and
- 3. Renewed for all categories of certification for the same renewal period.

F.H. Renewal.

- 1. An applicant for renewal of an applicator certification shall select a one or two-year renewal period.
- 2. An applicant shall submit the completed application accompanied by ~~a \$50~~ the applicable fee for a one-year renewal or ~~\$100~~ double the fee for a two-year renewal.
- 3. CEU requirements.
 - a. The Department shall not renew a private applicator or golf applicator certification unless, prior to the expiration of the current certification, the applicator completes three CEUs for each year of the renewal period.
 - b. The Department shall not renew a commercial applicator certification unless, prior to expiration of the current certification, the applicator completes six CEUs for each year of the renewal period.
 - c. The Department shall not renew a fumigation certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's ~~private private, golf,~~ or commercial applicator certification under this subsection and completes three additional CEUs per year of the renewal period.
 - d. The Department shall not renew an aquatic certification unless, prior to the expiration of the current certification, the applicant qualifies to renew the applicant's golf applicator certification under this subsection and completes three additional CEUs per year of the renewal period.
 - e. An applicator shall complete CEU credit while the current certification period is in effect. CEU credits earned in excess of the requirements do not carry forward for use in subsequent renewals.
 - e-f. To obtain credit, the applicant shall provide the Department with documentation of completion of the CEU course.
 - f-g. The CEU requirements are not applicable to an individual renewing an initial certification issued between October 1 and December 31.

4. Examination exception. An applicator who fails to complete the CEUs required for renewal may renew a certification, prior to expiration, for one year by submitting the completed application accompanied by a ~~\$50~~ the applicable fee and retaking and passing the applicable certification examination prescribed in this Section.

G.I. Renewal; expired certification.

1. An applicant may renew an expired certification without retaking the written examinations provided the applicant:
 - a. Has satisfied the CEU requirements,
 - b. Submits a completed application and fee within 30 days after the expiration date, and
 - c. Does not provide any pesticide-related service from the date the certification expired until the date the renewal is effective.
2. All other applicants for renewal shall complete the requirements for initial certification, including retaking and passing the written examinations prescribed in this Section.

R3-3-402. Private and Golf Applicator Records; Restricted Use Pesticide

- A. Following an application to a field on an agricultural establishment of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator shall complete an application record on a form approved by the Department, that includes the following:
 1. Name of the private applicator and the applicator's certification number;
 2. Name and permit number of the seller;
 3. Name of the pesticide applied and its EPA registration number;
 4. Date and time of application;
 5. Name of regulated grower;
 6. Method of application;
 7. Crop name and the number of acres treated with the pesticide;
 8. Rate per acre of the active ingredient or formulation of the pesticide;
 9. Total volume of pesticide used per acre; and
 10. County, range, township, and section of the field that received the application.
- B. Following an application to a non-field of a restricted use pesticide, a pesticide registered under Section 18 of FIFRA, or an experimental use permitted pesticide, a private applicator or golf applicator shall complete an application record on a form approved by the Department, that includes the following:
 1. The information requested under subsection (A)(1) through (A)(6);
 2. Item treated;
 3. Rate per item treated;
 4. Total volume used in the application; and
 5. Application site location by county, range, township, and section, or by physical address.
- C. A private applicator and golf applicator shall retain records required by this Section for at least two years from the date of the private application.

R3-3-502. Nonserious Violations

...

- F. Regulated grower violations. A regulated grower shall not:
 1. Purchase, apply, or use a pesticide without a valid regulated grower's permit issued by the Department; ~~or~~
 2. Apply a restricted use pesticide without being a certified ~~applicator.~~ applicator;
 3. Apply any pesticide on a golf course without being a golf applicator.
 4. Allow a pesticide application on a golf course without having the proper protective equipment required by the label available to the applicator.

These proposals are for final approval by the Task Force. Highlighting is used to show material that has been added or revised since July 11. The sections have also been renumbered, without highlighting, back to Title 32.

§ 3-363. Rules

The director shall adopt rules to regulate pesticides which shall include provisions to:

1. Administer and implement this article.
2. Prescribe measures to control, monitor, inspect and govern pesticide use.
3. Prohibit or restrict pesticide use.
4. Restrict the areas in which pesticide use may occur.
5. Prescribe minimum qualifications for all persons who engage in pesticide use, including, as appropriate, requirements that the persons have valid licenses, permits or certificates, have adequate training, including continuing education requirements and meet financial responsibility standards.
6. Prescribe appropriate record keeping and reporting requirements regarding pesticide use, except that the record keeping and reporting requirements for growers and certified private applicators who apply pesticides shall be equivalent to, but not more stringent than, the requirements prescribed under the federal insecticide, fungicide and rodenticide act (61 Stat. 163) and the food, agriculture, conservation and trade act of 1990 (P.L. 101-624; 104 Stat. 3359).
7. Prohibit pesticide use which is inconsistent with the pesticide label as required under the federal insecticide, fungicide and rodenticide act (61 Stat. 163).
8. Exempt from regulation under this article pesticide use that is regulated in **title 32, chapter 22**.
9. Issue licenses, permits and certificates for pesticide use, as appropriate, having terms of one or more years.
10. Charge and collect the following fees for each permit, license and certification under this article:
 - (a) Not to exceed twenty dollars per year for a grower permit.
 - (b) Not to exceed one hundred dollars per year for a seller permit.
 - (c) Not to exceed one hundred dollars per year for a custom applicator license.
 - (d) Not to exceed fifty dollars per year for a pilot license.
 - (e) Not to exceed fifty dollars per year for a pest control advisor license.
 - (f) Not to exceed twenty-five dollars per year for a piece of equipment used to apply pesticides by a custom applicator.
 - (g) Not to exceed fifty dollars per year for restricted use certification.
11. Establish a nonexclusive list of acts and omissions that constitute serious, nonserious and de minimis violations of this article.
12. Establish a system of administrative penalties and fines for violations of this article and any rules adopted under this article. Under this system:
 - (a) Violators shall be assessed a number of points for each violation, depending upon such factors as:
 - (i) Potential and actual consequences of the violation on public and worker health and safety and the environment.
 - (ii) Wrongfulness of the conduct.
 - (iii) Degree of culpability of the violator.
 - (iv) Duration of the violation.
 - (v) Prior violations or citations.
 - (b) Penalties shall be assessed depending upon the number of points accrued by the violator.

13. CHARGE AND COLLECT A FEE FOR ISSUING LICENSES AND CERTIFICATES FOR PESTICIDE USE ON GOLF COURSES.

ARTICLE 1. GENERAL PROVISIONS

§ 32-2301. Scope

THIS CHAPTER PERTAINS TO PEST MANAGEMENT. PEST MANAGEMENT MEANS THE MANAGEMENT OF HEALTH RELATED PESTS, AQUATIC PESTS, HOUSEHOLD PESTS, WOOD-DESTROYING ORGANISMS, OR OTHER PESTS, INCLUDING WEEDS, THAT EXIST IN, NEAR OR AROUND STRUCTURES, IN ORNAMENTAL SHRUBS AND TREES, ALONG RIGHTS-OF-WAY OR IN LAWNS OR CEMETERIES, FOR HIRE ON GOLF COURSES AND ALL PESTICIDE APPLICATIONS THAT COULD BE HARMFUL TO PUBLIC HEALTH OR THE ENVIRONMENT. THIS CHAPTER DOES NOT PERTAIN TO PESTICIDE APPLICATIONS USED DIRECTLY IN THE COMMERCIAL PRODUCTION OF CROPS AND ANIMALS OR USED, IF NOT FOR HIRE, ON GOLF COURSES.

§ ~~32-2301.~~ 32-2302. Definitions

In this chapter, unless the context otherwise requires:

~~1. "Acting director" means the person appointed pursuant to section 32-2302 to serve as the acting director of the office.~~

~~2. 1. "Branch office" means any fixed place of business, other than the primary office, where records are kept, mail is received, statements are rendered, money is collected, requests for service or bids are received or RECEIVED, information pertaining to the business of structural pest control MANAGEMENT is given and from which the use of pesticides and devices is supervised by a licensed applicator or qualifying party OR PESTICIDES ARE STORED OR DISPOSED OF.~~

2. "BRANCH SUPERVISOR" MEANS A CERTIFIED APPLICATOR WORKING AT OR FROM A BRANCH OFFICE WHO IS RESPONSIBLE FOR ENSURING THE TRAINING, EQUIPPING AND SUPERVISION OF ALL EMPLOYEES OF THE BRANCH OFFICE.

~~3. "Business license" means a license that is issued pursuant to this chapter OR RULES ADOPTED PURSUANT TO THIS CHAPTER to a person and that entitles that person and the person's employees to engage in the business of structural pest control MANAGEMENT.~~

~~4. "Business of structural pest control MANAGEMENT" means engaging in, offering to engage in, advertising for, soliciting or performing structural pest control MANAGEMENT, including any of the following:~~

~~(a) Identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of households or other structures, and the surrounding area by any of the following: INFESTATIONS.~~

~~(i) Public health pests.~~

~~(ii) Aquatic pests.~~

~~(iii) Household pests.~~

~~(iv) Wood destroying insects.~~

~~(v) Pests, Other pests, including weeds, existing around structures, in ornamental shrubs and trees, on golf courses, along rights of way or in lawns and cemeteries.~~

~~(vi) Fungi.~~

~~(b) Making written or oral inspection reports, recommendations, estimates or bids with respect to infestations.~~

~~(c) The application of pesticides or the making of contracts or submitting of bids for the application of pesticides or the use of devices for the purpose of eliminating, exterminating, controlling or preventing infestations.~~

5. "CERTIFIED APPLICATOR" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE OFFICE TO PROVIDE PEST MANAGEMENT SERVICES IN ACCORDANCE WITH THIS CHAPTER.

6. "CERTIFIED QUALIFIED APPLICATOR" MEANS A CERTIFIED APPLICATOR WHO IS ELIGIBLE TO ACT AS A QUALIFYING PARTY.

7. "CHILD CARE FACILITY" MEANS A FACILITY REGULATED PURSUANT TO TITLE 36, CHAPTER 7.1.

~~5. 8. "De minimis violation" means a violation that, although undesirable, has no direct or immediate relationship to safety, health or property damage.~~

~~6. 9. "Department" means, through December 31, 2013, the Arizona department of agriculture.~~

~~7. 10. "Device" means any mechanical, pesticide or electrical apparatus used in conjunction with, in place of or to supplement, disperse or dispense pesticides~~ INSTRUMENT OR CONTRIVANCE THAT IS INTENDED TO BE USED FOR TRAPPING, DESTROYING, REPELLING, OR MITIGATING ANY PEST OR ANY OTHER FORM OF PLANT OR ANIMAL LIFE.

~~8. 11. "Direct supervision" means use of a pesticide under the instructions, control and responsibility of a licensed CERTIFIED applicator who is available if needed for consultation or assistance even though the licensed CERTIFIED applicator is not physically present at the time and place the pesticide is used.~~

~~9. 12. "Director" means, through December 31, 2013, the director of the Arizona department of agriculture.~~

~~10. 13. "Final grade treatment" means establishment of A COMPLETE vertical barriers BARRIER at the exterior of foundation walls in stem wall OR MONOLITHIC construction or at the exterior of grade beams in monolithic construction.~~

14. "FINANCIAL SECURITY" MEANS LIABILITY INSURANCE, A DEPOSIT OF CASH OR CERTIFIED MONIES, A SURETY BOND, OR AN IRREVOCABLE AND UNCONDITIONAL LETTER OF CREDIT FROM AN ARIZONA OR FEDERALLY CHARTERED FINANCIAL INSTITUTION.

~~11. "Fungi inspection report" means a written inspection report on a form approved by the office.~~

~~12. 15. "Household pests" means pests, other than wood-destroying insects, ORGANISMS, that invade households or other structures, including rodents, vermin and insects.~~

~~13. 16. "Immediate supervision" means use of a pesticide by an employee acting under the instructions, control and responsibility of a licensed CERTIFIED applicator who is within the direct line of sight or within hearing distance of the employee and who is available for consultation or assistance at the time and place the pesticide is used.~~

~~14. 17. "Initial termite corrective treatment" means the first POST-CONSTRUCTION treatment of any kind performed by a licensee after a treatment made prior to or during construction, excluding a treatment performed under warranty by a licensee who has performed the PRETREATMENT OR NEW-CONSTRUCTION treatment prior to or during construction.~~

~~15. 18. "Inquiry" means information from the public or office staff~~ AN INITIAL INVESTIGATION of possible violations of this chapter, CHAPTER or rules adopted pursuant to this chapter BASED ON INFORMATION RECEIVED FROM THE PUBLIC OR OFFICE STAFF.

~~16. 19. "Integrated pest management" means a sustainable approach to managing pests that combines biological, cultural, physical and pesticide~~ CHEMICAL tools in a way that minimizes economic, health and environmental risks.

~~17. "License" means an approval granted by the office to act as an applicator or qualifying party or to operate a business of structural pest control in this state.~~

~~18. "Licensed applicator" means a person who is licensed by the office to apply pesticides in accordance with this chapter.~~

20. "NEW-CONSTRUCTION TREATMENT" MEANS A TREATMENT THAT PROTECTS ALL CELLULOSE COMPONENTS OF A STRUCTURE FROM WOOD-DESTROYING INSECTS AND IS PERFORMED AFTER A PERMANENT CONCRETE SLAB FOUNDATION IS INSTALLED OR FOOTINGS AND SUPPORTS FOR A RAISED FOUNDATION ARE INSTALLED, BUT BEFORE THE STRUCTURE OR A FINAL GRADE TREATMENT IS COMPLETED.

~~19. 21. "Office" means the office of pest management established by section 32-2302~~ 32-2303.

~~20- 22.~~ "Other structures" includes railroad cars, boats, docks, motor vehicles or airplanes and their contents.

~~21- 23.~~ "Pest management" means the management of ~~public health~~ HEALTH RELATED pests, aquatic pests, household pests, wood-destroying insects, fungi ORGANISMS, or other pests, including weeds, that exist IN, near or around structures, in ornamental shrubs and trees, ~~on golf courses~~, along rights-of-way or in lawns or cemeteries, FOR HIRE ON GOLF COURSES and all pesticide ~~application~~ APPLICATIONS that could be harmful to public health or the environment. Pest management does not include pesticide applications used directly in the commercial production of crops and animals ~~if those applications are governed by the Arizona department of agriculture pursuant to title 3, chapter 2, articles 6 and 6.1~~ OR USED, IF NOT FOR HIRE, ON GOLF COURSES.

24. "PEST MANAGEMENT SERVICES" MEANS IDENTIFYING INFESTATIONS OR MAKING INSPECTIONS FOR THE PURPOSE OF IDENTIFYING OR ATTEMPTING TO IDENTIFY INFESTATIONS, MAKING WRITTEN OR ORAL INSPECTION REPORTS OR RECOMMENDATIONS WITH RESPECT TO INFESTATIONS, AND THE APPLICATION OF PESTICIDES OR THE USE OF DEVICES NOT EXEMPT BY SECTION 32-2304, SUBSECTION B, PARAGRAPH 18, FOR THE PURPOSE OF ELIMINATING, EXTERMINATING, CONTROLLING OR PREVENTING INFESTATIONS.

~~22- 25.~~ "Pesticide" means any substance or mixture of substances intended to be used ~~for defoliating plants or for preventing, destroying, repelling or mitigating insects, fungi, bacteria, microbes, weeds, rodents, predatory animals or any form of plant or animal life that is,~~ OR THAT THE DIRECTOR MAY DECLARE TO BE, a pest and may infest or be detrimental to vegetation, humans, animals or households or be present in any environment.

26. "POLITICAL SUBDIVISION" MEANS A STATE AGENCY, COUNTY, CITY, TOWN, MUNICIPAL CORPORATION OR SCHOOL DISTRICT, OR A SPECIAL DISTRICT FORMED PURSUANT TO TITLE 48.

27. "POST-CONSTRUCTION TREATMENT" MEANS TREATMENT TO CONTROL WOOD-DESTROYING INSECTS IN AN EXISTING STRUCTURE PERFORMED AFTER ALL SOIL DISTURBANCE ASSOCIATED WITH CONSTRUCTION IS COMPLETE AND AFTER AN APPLICATOR HAS COMPLETED AN INSPECTION OF THE STRUCTURE AND A TREATMENT PROPOSAL UNDER SECTION 32-2323(A) & (B).

28. "PRETREATMENT" MEANS A TERMITE TREATMENT THAT PROTECTS ALL CELLULOSE COMPONENTS OF A STRUCTURE FROM SUBTERRANEAN TERMITES, IS PERFORMED BEFORE A PERMANENT CONCRETE SLAB FOUNDATION IS INSTALLED OR IN CONJUNCTION WITH ESTABLISHING FOOTINGS AND SUPPORTS FOR A RAISED FOUNDATION, AND ESTABLISHES THOROUGH AND COMPLETE HORIZONTAL AND VERTICAL TREATED BARRIERS.

~~23- 29.~~ "Prior violation" means any violation for which disciplinary action was taken within a five-year period prior to the date of the violation for which current disciplinary action is sought.

~~24- 30.~~ "Qualifying party" means ~~an individual who is licensed by the office to ensure the supervision and training~~ A CERTIFIED QUALIFIED APPLICATOR REGISTERED WITH THE OFFICE AS THE INDIVIDUAL RESPONSIBLE FOR ENSURING THE TRAINING, EQUIPPING AND SUPERVISION of all employees APPLICATORS of a business licensee LICENSEE OR POLITICAL SUBDIVISION in the business of structural pest control.

31. "SCHOOL" MEANS ANY PUBLIC OR NONPUBLIC INSTITUTION, OTHER THAN A CHILD'S HOME, ESTABLISHED FOR THE PURPOSES OF OFFERING INSTRUCTION TO PUPILS IN PROGRAMS FOR PRESCHOOL CHILDREN WITH DISABILITIES, KINDERGARTEN PROGRAMS OR ANY COMBINATION OF GRADES ONE THROUGH TWELVE THAT QUALIFIES AS A SCHOOL PURSUANT TO SECTION 15-802.

32. "SERVICE VEHICLE" MEANS A MOTOR VEHICLE, INCLUDING A TRAILER ATTACHED TO THE MOTOR VEHICLE, USED TO TRANSPORT EQUIPMENT OR PESTICIDES FOR THE BUSINESS OF PEST MANAGEMENT.

33. "STERILANT" MEANS A PRODUCT THAT IS DESIGNED FOR KILLING ALL LIVE VEGETATION AND PREVENTING ALL VEGETATION GROWTH FOR TWELVE OR MORE MONTHS.

~~25- 34.~~ "Weed" means any plant that grows where it is not wanted.

26- 35. "Wood-destroying insect inspection report" means a written inspection report on a form approved by the ~~acting~~ director that is prepared in connection with the sale or refinancing of real property whether or not the report is used as part of the transaction.

27- 36. "Wood-destroying ~~insects~~ ORGANISMS" means ~~insects~~ ORGANISMS that attack, damage or destroy wood or wood-derivative products, BUT DOES NOT INCLUDE BIRDS OR MAMMALS.

§ 32-2302. 32-2303. Office of pest management; ~~acting director~~ management and administrative services

A. The office of pest management is established.

B. ~~The director of the department of agriculture shall appoint an acting director of the office who has administrative experience and experience in pest management to serve at the director's pleasure through December 31, 2013.~~

B. THE DEPARTMENT SHALL PROVIDE THROUGH AN INTERAGENCY AGREEMENT NECESSARY MANAGEMENT AND ADMINISTRATIVE SERVICES TO THE OFFICE OF PEST MANAGEMENT IN CONDUCTING ITS ACTIVITIES INCLUDING:

1. PROVIDING FINANCIAL AND ACCOUNTING SERVICES INCLUDING ISSUING CHECKS, PAYING BILLS APPROVED BY THE OFFICE, PREPARING BUDGETS, AND ANY OTHER ACTIVITIES REQUESTED BY THE OFFICE.

2. RECEIVING MONIES AUTHORIZED UNDER THIS CHAPTER FOR DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE APPROPRIATE FUNDS.

3. MANAGING THE OFFICE'S INFORMATION TECHNOLOGY SYSTEMS.

4. RECEIVING MAIL AND OTHER COMMUNICATIONS FOR THE OFFICE.

5. RULEMAKING, PREPARING REPORTS FOR THE GOVERNOR'S REGULATORY REVIEW COUNCIL, AND PREPARING REGULATORY AGENDAS.

6. PROVIDING HUMAN RESOURCES SERVICES INCLUDING EMPLOYEE RELATIONS, STAFFING AND RECRUITMENT, CLASSIFICATION AND COMPENSATION ADVICE, AND PERSONNEL POLICY ASSISTANCE.

7. PROVIDING OTHER SERVICES REQUESTED BY THE OFFICE AND APPROVED BY THE DEPARTMENT.

C. THE OFFICE SHALL REIMBURSE THE DEPARTMENT FOR NECESSARY MANAGEMENT AND ADMINISTRATIVE SERVICES, INCLUDING FOR THE DIRECTOR'S SERVICES, RENDERED FOR THE BENEFIT OF THE OFFICE FROM THE MONIES RECEIVED UNDER THIS CHAPTER IN AN AMOUNT AGREED ON BY THE OFFICE AND DEPARTMENT.

§ 32-2304. Powers and duties

A. ~~The acting director is responsible for administering this chapter and~~ shall:

1. Adopt rules that are necessary or proper ~~for the administration of~~ TO ADMINISTER AND IMPLEMENT this chapter, including administrative provisions, LICENSE AND REGISTRATION REQUIREMENTS AND QUALIFICATIONS, TRAINING AND education requirements, health and safety provisions, DUTIES AND RESPONSIBILITIES, RECORDKEEPING AND PRODUCTION OF RECORDS REQUIREMENTS, FINANCIAL SECURITY STANDARDS, LICENSEE INSPECTION AND TREATMENT REPORTS REQUIREMENTS, DISCIPLINARY ACTION PROVISIONS, EQUIPMENT PROVISIONS, ADVERTISING REQUIREMENTS, and provisions for the use, storage and application of pesticides and devices used in ~~structural pest control~~ MANAGEMENT, THAT MAY BE MORE STRINGENT THAN A CORRESPONDING FEDERAL LAW.

2. Administer and enforce this chapter and rules adopted pursuant to this chapter.

3. Notify the business licensee, applicator and qualifying party in writing of any ~~complaint against~~ INQUIRY INTO POSSIBLE VIOLATIONS BY the business licensee, qualifying party or employee of the business licensee by the close of business on the tenth business day after the day on which the ~~acting~~ director initiated the ~~complaint~~. INQUIRY IF THE

DIRECTOR ANTICIPATES AN ENFORCEMENT ACTION. IF IN THE COURSE OF THE INVESTIGATION THE OFFICE IDENTIFIES ANY ALLEGED VIOLATIONS BY A DIFFERENT BUSINESS LICENSEE, APPLICATOR OR QUALIFYING PARTY, THE DIRECTOR SHALL NOTIFY THE ADDITIONAL ALLEGED VIOLATOR BY THE CLOSE OF BUSINESS ON THE TENTH BUSINESS DAY AFTER THE DAY ON WHICH THE DIRECTOR INITIATED THE NEW INQUIRY.

~~4. Issue subpoenas for the taking of depositions, the production of documents and things and the entry on land for inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation on the property relevant to the complaint.~~

~~5. Conduct~~ DEVELOP AND EITHER CONDUCT or contract to conduct CERTIFIED applicator license and CERTIFIED ~~qualifying party license~~ QUALIFIED APPLICATOR tests at locations throughout this state. If the ~~acting~~ director contracts for these tests, the contracts may provide for specific examination fees or a reasonable range of fees determined by the ~~acting~~ director to be paid directly to the contractor by the applicant. The ~~acting~~ director shall make all efforts to contract with private parties to electronically administer the ~~applicator and qualifying party license~~ tests.

~~6. 5.~~ Maintain a computer system for the benefit and protection of the public that includes the following information on ~~termite~~ PRETREATMENTS, NEW-CONSTRUCTION TREATMENTS, FINAL GRADE treatments ~~that are done before or during construction~~, initial ~~termite~~ corrective projects, ~~preventative termite~~ treatments and wood-destroying insect inspection reports:

- (a) The name of the individual who performed the work.
- (b) The address or location of the work or project.
- (c) The name of the pest management company.
- (d) The name of the qualifying party.
- (e) The applicator license numbers.
- (f) The nature and date of the work performed.
- (g) Any other information that is required by rule.

~~7. 6.~~ Establish offices the ~~acting~~ director deems necessary to carry out the purposes of this chapter.

~~8. 7.~~ Subject to title 41, chapter 4, article 4, employ personnel the ~~acting~~ director deems necessary to carry out the purposes of this chapter and designate their duties.

~~9. Investigate violations of this chapter and rules adopted pursuant to this chapter.~~

~~10. 8.~~ Oversee the approval, content and method of delivery of continuing education courses.

~~11. 9.~~ Deny a license to any person who has had a license revoked for a period of five years from the time of revocation.

~~12. 10.~~ License applicators, ~~qualifying parties~~ QUALIFIED APPLICATORS and businesses in accordance with this chapter and rules adopted pursuant to this chapter.

11. REGISTER QUALIFYING PARTIES AND BRANCH SUPERVISORS IN ACCORDANCE WITH THIS CHAPTER AND RULES ADOPTED PURSUANT TO THIS CHAPTER.

~~13. 12.~~ Require the payment of a penalty for any late license renewal.

~~14. Require either completion of the continuing education requirement or successful completion of the license examination for failure to renew a license on time.~~

~~15. Suspend a license if a licensee fails to renew the license within thirty calendar days after the renewal date.~~

~~16. 13.~~ Refuse to issue a business license in a name that is not registered with the secretary of state or filed with the Arizona corporation commission.

~~17. 14.~~ Adopt a wood-destroying insect inspection report form for use by business licensees.

~~B. The acting director may charge to the holder of a business license the actual cost of providing mailed copies of rules, forms or policies that are proposed for adoption and for educational materials.~~

~~C. The acting director shall administer and enforce this chapter and the rules adopted pursuant to this chapter.~~

~~D. B.~~ The acting director may:

1. Compel attendance of witnesses, administer oaths or affirmations and take testimony concerning all matters coming within the acting director's jurisdiction.

~~2. Require a person who seeks a license pursuant to this chapter to submit to the office a full set of fingerprints and the fees required by section 41-1750. The acting director shall submit the fingerprints and fees to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The department of public safety may exchange this fingerprint data with the federal bureau of investigation.~~

2. ISSUE SUBPOENAS FOR THE TAKING OF DEPOSITIONS, THE PRODUCTION OF DOCUMENTS AND THINGS AND THE ENTRY ON LAND FOR INSPECTION AND MEASURING, SURVEYING, PHOTOGRAPHING, TESTING OR SAMPLING THE PROPERTY OR ANY DESIGNATED OBJECT OR OPERATION ON THE PROPERTY RELEVANT TO AN INQUIRY OR COMPLAINT.

3. CONTRACT AND enter into INTERAGENCY AND intergovernmental agreements WITH ANY PRIVATE PARTY OR PUBLIC AGENCY.

4. With at least twenty-four ~~hours~~ HOURS notice, ~~request specific records from~~ UNLESS THERE MAY BE AN IMMEDIATE RISK TO HEALTH OR SAFETY, REQUIRE a business licensee, qualifying party or CERTIFIED applicator ~~at the person's place of business during normal business hours~~ TO PRODUCE SPECIFIC RECORDS. ON A SHOWING OF GOOD CAUSE BY THE PERSON, THE DIRECTOR MAY EXCUSE A FAILURE TO TIMELY COMPLY.

5. Deny or revoke a license based on the information in the application ~~or information that the acting director receives from the criminal background check.~~

~~6. On a showing of good cause by the business licensee, excuse a failure to timely comply with a records request.~~

~~7.~~ 6. Issue advisory notices for de minimis violations.

~~8. Require inspectors to be licensed applicators in all categories within their scope of work during their probationary period. Inspectors shall attend and complete an investigative training class that is prescribed by the acting director.~~

~~9.~~ 7. Investigate alleged violations of all applicable federal and state statutes, THIS CHAPTER, rules or ADOPTED PURSUANT TO THIS CHAPTER, CONSENT AGREEMENTS, orders or ~~alleged violations of~~ AND any condition imposed in connection with a license.

8. REQUIRE THE PUBLIC TO PROVIDE ALLEGED VIOLATIONS IN WRITING.

~~10.~~ 9. Pursuant to section ~~32-2329~~ 41-1092.11, summarily suspend a license issued under this chapter to protect the health, safety and welfare of the public.

~~11.~~ 10. Issue a corrective work order requiring a licensee to remedy deficiencies in treatment or to comply with this chapter or any rules adopted pursuant to this chapter before or after a formal hearing.

~~12.~~ 11. Do at least one of the following in relation to unlicensed pest management business operations, EXCEPT AS TO OPERATIONS NOT REQUIRING LICENSURE:

(a) Issue a cease and desist order requiring ~~an unlicensed pest management~~ THE business to immediately cease operations.

(b) ~~Except as provided in section 32-2311, subsection D, impose on an unlicensed pest management~~ IMPOSE ON THE OWNER OF THE business a civil penalty of not more than one thousand dollars for the first occurrence and not more than two thousand dollars for the second or subsequent occurrence.

~~13. Refer all cases for formal hearing to the office of administrative hearings.~~

~~14.~~ 12. Refuse to issue a business license in a name that is likely to be misleading or to imply any distorted representation about the business.

~~15.~~ 13. ~~Issue a renewable and revocable temporary qualifying party license to a licensed~~ REGISTER A CERTIFIED applicator who is a representative of a business licensee AS A TEMPORARY QUALIFYING PARTY if the qualifying party becomes disassociated with the business licensee.

~~16.~~ 14. Provide and conduct classes to train ~~applicators and qualifying parties~~ INDIVIDUALS in preparation for ~~license tests~~ CERTIFIED APPLICATOR AND CERTIFIED QUALIFIED APPLICATOR EXAMS. The ~~acting~~ director may assess a fee for each class. The ~~acting~~ director may contract with a commercial enterprise or an accredited institution to conduct the class.

~~17.~~ 15. Provide and conduct continuing education classes quarterly. The ~~acting~~ director may assess a fee for each credit hour. The ~~acting~~ director may contract with a commercial enterprise or an accredited institution to conduct the class under the supervision of office staff.

~~18.~~ Appoint an employee of the office to conduct an informal settlement conference with a licensee against whom an inquiry is received or a complaint is filed.

~~19.~~ Prepare a consent order only after either an informal settlement conference is conducted pursuant to section 32-2321 or a formal hearing is conducted pursuant to title 41, chapter 6, article 10.

~~20.~~ 16. Apply to the appropriate court, through the attorney general or county attorney, for an order enjoining any act or practice that constitutes a violation of this chapter or any rule adopted pursuant to this chapter.

~~21.~~ Approve proposed consent orders.

17. ENTER INTO CONSENT AGREEMENTS AND ISSUE CONSENT ORDERS.

18. DESIGNATE BY RULE DEVICES THAT ARE EXEMPT FROM THE LICENSURE AND REGISTRATION REQUIREMENTS UNDER THIS CHAPTER.

19. CHARGE A PERSON FOR PROVIDING COPIES OF RULES, FORMS OR POLICIES THAT ARE PROPOSED FOR ADOPTION AND EDUCATIONAL MATERIALS.

20. REQUIRE BUSINESS LICENSEES OR QUALIFYING PARTIES TO REGISTER WITH THE OFFICE OR OTHERWISE IDENTIFY ALL OF THE LICENSED AND UNLICENSED APPLICATORS OF THE BUSINESS OR SUPERVISED BY THE QUALIFYING PARTY.

21. REQUIRE A BUSINESS LICENSEE TO PRODUCE RECORDS, INCLUDING TAX RECORDS, FOR THE PURPOSE OF VERIFYING THAT AN INDIVIDUAL IS AN EMPLOYEE OF THE BUSINESS LICENSEE.

22. CHARGE A HANDLING FEE IN ADDITION TO THE TRANSACTION AMOUNT FOR ANY TRANSACTION THAT COULD HAVE BEEN COMPLETED ELECTRONICALLY AND WAS NOT.

23. DENY A LICENSE TO OR REFUSE TO RENEW THE LICENSE OF A PERSON WHO OWES UNPAID FEES OR CIVIL PENALTIES TO THE OFFICE.

~~E. Each completed form for a termite treatment that is done before or during construction, initial termite corrective treatment project or wood-destroying insect inspection report shall be accompanied by a fee. The initial fee is eight dollars. The acting director may:~~

~~1. Adjust the fee upward or downward to a level that is calculated to produce sufficient revenue to carry out the functions prescribed under this section.~~

~~2. Establish tiered fees according to the means of submission to encourage electronic submission of the termite action registration form.~~

~~3. Assess a penalty of not to exceed one hundred dollars per form for failing to submit the required form or fee, or both, within thirty calendar days.~~

~~F. Subject to the limitations of section 41-2544, the acting director may enter into agreements for the purpose of enabling the office to accept payment for fees imposed under this chapter by alternative payment methods, including credit cards,~~

~~charge cards, debit cards and electronic funds transfers. Before the monies are transferred to the acting director pursuant to section 32-2305, the person collecting the fees shall deduct any amount charged or withheld by a company providing the alternative payment method under an agreement with the office.~~

~~G. C. In the enforcement of this article, the acting THE director or any duly authorized agents may enter with the authority of a warrant issued by a court of competent jurisdiction at reasonable times on any private or public property~~ PROPERTY, INCLUDING SERVICE VEHICLES, on which pesticides are located or are reasonably believed to be located to be used for purposes related to pest management OR ANY OFFICE OF A BUSINESS ENGAGED IN PEST MANAGEMENT. The owner, managing agent or occupant of the property OR OFFICE shall permit entry for the purpose of inspecting and investigating conditions relating to the use, storage, application and disposal of ~~pesticides.~~ PESTICIDES, INCLUDING WORKER SAFETY MATERIALS, AND TO RECORDS PERTAINING TO PEST MANAGEMENT. IF A PERSON REFUSES TO ADMIT THE DIRECTOR OR AN AGENT IN ACCORDANCE WITH THIS SUBSECTION, THE DIRECTOR MAY OBTAIN A WARRANT FROM A COURT OF COMPETENT JURISDICTION. IF A LICENSED PERSON REFUSES TO ADMIT THE DIRECTOR OR AN AGENT IN ACCORDANCE WITH THIS SUBSECTION DURING REGULAR BUSINESS HOURS, THE DIRECTOR MAY ALSO IMPOSE DISCIPLINARY ACTION ON THE PERSON.

D. THE DIRECTOR OR ANY DULY AUTHORIZED AGENTS MAY MONITOR COMPLIANCE BY A PERSON WITH THIS CHAPTER AND THE RULES ADOPTED UNDER THIS CHAPTER WHILE THE PERSON IS PROVIDING PEST MANAGEMENT SERVICES.

§ 32-2305. Pest management fund; exemption

~~A. A THE~~ THE pest management TRUST fund is established FOR THE EXCLUSIVE PURPOSE OF IMPLEMENTING, CONTINUING AND SUPPORTING THE PROGRAM ESTABLISHED BY THIS CHAPTER. ALL MONIES COLLECTED UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE DEPOSITED IN THE TRUST FUND.

~~B. Pursuant to sections 35-146 and 35-147, the acting director shall deposit ten per cent of all fees in the state general fund and deposit the remaining ninety per cent in the pest management fund. All monies collected from civil penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the state general fund.~~ THE DIRECTOR SHALL ADMINISTER THE TRUST FUND AS TRUSTEE. THE STATE TREASURER SHALL ACCEPT, SEPARATELY ACCOUNT FOR AND HOLD IN TRUST ANY MONIES DEPOSITED IN THE STATE TREASURY, WHICH ARE CONSIDERED TO BE TRUST MONIES AS DEFINED IN SECTION 35-310 AND WHICH SHALL NOT BE COMMINGLED WITH ANY OTHER MONIES IN THE STATE TREASURY EXCEPT FOR INVESTMENT PURPOSES. ON NOTICE FROM THE DIRECTOR, THE STATE TREASURER SHALL INVEST AND DIVEST ANY TRUST FUND MONIES DEPOSITED IN THE STATE TREASURY AS PROVIDED BY SECTIONS 35-313 AND 35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE TRUST FUND.

C. THE BENEFICIARY OF THE TRUST IS THE PROGRAM ESTABLISHED BY THIS CHAPTER. THE TRUST FUND SHALL BE USED SOLELY FOR THE PURPOSES OF THIS CHAPTER ON THE ORDER OF THE DIRECTOR.

~~C. D. Monies deposited in the THE pest management TRUST fund are~~ SHALL BE exempt from the provisions of section § 35-190 relating to lapsing of appropriations. SURPLUS MONIES, INCLUDING ANY UNEXPENDED AND UNENCUMBERED BALANCE AT THE END OF THE FISCAL YEAR, DO NOT REVERT TO THE STATE GENERAL FUND.

§ 32-2306. Annual and informational reports

REPEAL

§ 32-2306. Pest Management Advisory Committee

A. A PEST MANAGEMENT ADVISORY COMMITTEE IS ESTABLISHED CONSISTING OF FIVE MEMBERS APPOINTED BY THE DIRECTOR. THE MEMBERS SHALL BE APPOINTED AS FOLLOWS:

1. THREE INDUSTRY MEMBERS WHO ARE BUSINESS LICENSEES OR QUALIFYING PARTIES AND WHO HAVE A MINIMUM OF FIVE YEARS OF PEST MANAGEMENT EXPERIENCE. AT LEAST ONE INDUSTRY MEMBER SHALL BE A BUSINESS LICENSEE WHO HAS FIVE OR FEWER EMPLOYEES AND AT LEAST ONE INDUSTRY MEMBER SHALL BE FROM OUTSIDE OF MARICOPA AND PIMA COUNTIES.

2. ONE POLITICAL SUBDIVISION MEMBER.

3. ONE PUBLIC MEMBER WHO DOES NOT PROVIDE PEST MANAGEMENT SERVICES OR WORK FOR A BUSINESS LICENSED BY THE OFFICE.

B. COMMITTEE MEMBERS SHALL BE APPOINTED FOR THREE YEAR STAGGERED TERMS. MEMBERS MAY NOT SERVE CONSECUTIVE TERMS OF OFFICE, EXCEPT THAT A MEMBER WHO IS APPOINTED TO FILL A VACANCY MAY SERVE THE UNEXPIRED TERM THAT FILLS THE VACANCY PLUS ONE REGULAR TERM. A MEMBER WHO COMPLETES A TERM IS INELIGIBLE FOR REAPPOINTMENT FOR THREE YEARS.

C. THE OFFICE OF A MEMBER IS DEEMED VACANT UNDER ANY OF THE FOLLOWING CIRCUMSTANCES:

1. THE MEMBER NO LONGER SATISFIES THE QUALIFICATION IN SUBSECTION A.

2. THE MEMBER IS UNABLE TO PERFORM THE DUTIES OF THE OFFICE.

3. THE ABSENCE OF THE MEMBER FROM THREE CONSECUTIVE COMMITTEE MEETINGS IF THE ABSENCES HAVE NOT BEEN EXCUSED BY THE COMMITTEE.

D. THE COMMITTEE SHALL SELECT A CHAIRMAN AND VICE-CHAIRMAN FROM AMONG ITS MEMBERS. THE COMMITTEE SHALL ASSIST AND MAKE RECOMMENDATIONS TO THE DIRECTOR REGARDING THE ADMINISTRATION AND IMPLEMENTATION OF THIS CHAPTER.

E. MEMBERS OF THE COMMITTEE ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF TRAVEL AND OTHER EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2.

§ 32-2307. Local regulation

The provisions of this chapter and the rules which implement this chapter are of statewide concern and are not subject to further local regulation.

ARTICLE 2. CERTIFICATION, REGISTRATION AND LICENSURE

§ 32-2311. Certification categories

AN INDIVIDUAL MAY APPLY FOR CERTIFICATION AS AN APPLICATOR OR QUALIFIED APPLICATOR IN ANY ONE OR A COMBINATION OF THE FOLLOWING CATEGORIES:

1. INDUSTRIAL, INSTITUTIONAL, STRUCTURAL AND HEALTH RELATED PEST MANAGEMENT.
2. WOOD-DESTROYING ORGANISM MANAGEMENT.
3. ORNAMENTAL AND TURF PEST MANAGEMENT.
4. RIGHT-OF-WAY PEST MANAGEMENT.
5. AQUATIC PEST MANAGEMENT.
6. FUMIGATION.
7. OTHER CATEGORIES OR SUBCATEGORIES ESTABLISHED BY RULE.

~~§ 32-2312. Applicator licenses; application; categories; renewal; inactive licenses~~

REPEAL

~~§ 32-2313. 32-2312. Business license; renewal; financial security; definition~~

A. A person who ~~wishes to engage~~ ENGAGES in the business of pest management shall ~~first obtain~~ POSSESS a VALID business license OBTAINED from the office ~~as provided in this article~~. A person who is not exempt under this ~~article~~ CHAPTER and who advertises for, solicits or holds himself out as willing to engage in the business of pest management is presumed to be ENGAGING in the business of pest management.

B. An application for AN ORIGINAL OR A RENEWAL OF a business license shall:

1. Be in a form AND INCLUDE THE INFORMATION prescribed by the ~~acting~~ director.
2. Be accompanied by the prescribed fee.
- ~~3. Include the name and address of the qualifying party and written documentation of how the qualifying party will be active in the day-to-day management of the business licensee.~~
- ~~4. List all owners with more than a ten-per cent ownership interest in the company, all corporate officers and members of the board of directors.~~

~~C. A business licensee shall register each primary and branch office with the acting director before it opens for business.~~

~~D. 3. An applicant shall furnish~~ INCLUDE the following ~~to the acting director~~ PROOF OF FINANCIAL SECURITY:

- ~~1. (a) Proof of financial responsibility consisting of either~~ EITHER a deposit of money, liability insurance, self-insured retention, a surety bond or a certified check protecting persons who may suffer ~~legal damages~~ BODILY INJURY OR PROPERTY DAMAGE as a result of the operations of the applicant. The ~~acting~~ director shall not accept a bond or a liability insurance policy unless issued by an insurer that holds a valid certificate of authority or that is permitted to transact surplus lines insurance in this state. The amount of the deposit, insurance, self-insured retention or bond shall be at least five hundred thousand dollars and shall be maintained at not less than that amount at all times during the licensing period. The license of a business licensee whose financial security falls below the minimum five hundred thousand dollars shall be suspended by the ~~acting~~ director and shall remain suspended until the security meets the minimum financial security requirement. The financial security need only cover those particular operations in which the licensee is engaged at any time. If the financial security is in the form of liability insurance or a surety bond, the licensee shall furnish the ~~acting~~ director with a certificate of coverage that indicates the coverages and endorsements required by this subsection on a form prescribed by the ~~acting~~ director.

2. (b) Either of the following if the business licensee performs termite treatments:

(a) (i) Proof of a surety bond in the amount of one hundred thousand dollars per business license for actual damages, including reasonable costs of collection suffered by persons as a result of termite damage due to negligent treatment.

(b) (ii) Proof of a liability insurance policy rider in the amount of one hundred thousand dollars per business license that covers termite damage due to negligent treatment.

3. (c) If the business licensee provides wood-destroying insect inspection reports or ~~fungi inspection reports~~, proof of a surety bond or a liability insurance policy rider in the amount of one hundred thousand dollars per business license for actual damages plus reasonable costs of collection suffered by persons as a result of errors and omissions contained in the reports.

4.C. If an insurance policy provides for a deductible, the deductible amount shall not exceed one per cent of the total financial security for each occurrence. If the deductible amount is in excess of one per cent of the total financial security for each occurrence, the business licensee shall provide other security as provided in this ~~subsection~~ SECTION or other evidence of financial security for the excess deductible amount.

5.D. If the financial security is in the form of liability insurance, a licensee shall maintain a coverage endorsement for pesticides and herbicides, fumigation, care, custody and control, rights-of-way, wood-destroying insect inspection report errors and omissions, ~~fungi inspection report errors and omissions~~ and pollution transit for its applicable license categories.

E. If the proof of financial security on file with the **office** expires, the business license is automatically suspended until a current certificate of insurance or proof of financial responsibility is furnished to the ~~acting~~ director.

F. ~~Except as provided in section 32-4301, each business licensee shall renew the business license and each office registration on or before the expiration date of the license by filing renewal forms prescribed by the acting director and paying the prescribed renewal fees. If a business licensee fails to renew the business license as required by this subsection, the licensee shall not engage in the business of pest management.~~

G. ~~Each branch office of a business licensee shall be supervised by a licensed applicator or qualifying party who is licensed in all categories in which the branch office operates.~~

H. ~~For the purposes of this section, "financial security" means liability insurance, a deposit of cash or certified monies, a surety bond or other equivalent item.~~

~~§ 32-2314. Qualifying party; license; examination; inactive status; temporary license~~

REPEAL

§ 32-2313. Qualifying party

A. A PERSON SHALL NOT ENGAGE IN THE BUSINESS OF PEST MANAGEMENT IN ANY CATEGORY WITHOUT A QUALIFYING PARTY REGISTERED IN THAT CATEGORY.

B. TO BE A QUALIFYING PARTY, AN INDIVIDUAL SHALL:

1. BE A CERTIFIED QUALIFIED APPLICATOR.

2. REGISTER AS A QUALIFYING PARTY WITH THE **OFFICE** USING A FORM AND INCLUDING THE INFORMATION PRESCRIBED BY THE DIRECTOR.

§ 32-2314. Branch office; branch supervisor

A. A BUSINESS LICENSEE SHALL REGISTER EACH BRANCH OFFICE WITH THE DIRECTOR BEFORE THE BRANCH OFFICE OPENS FOR BUSINESS.

B. EACH BRANCH OFFICE SHALL BE SUPERVISED BY A REGISTERED BRANCH SUPERVISOR.

§ 32-2311. 32-2315. Persons not required to be licensed; civil penalties; definition License exemptions

A. ~~This~~ THE PROVISIONS OF THIS chapter ~~does~~ REQUIRING LICENSURE AND REGISTRATION DO not apply to:

1. ~~Persons licensed or certified pursuant to title 3, chapter 2, article 6.~~
2. Persons applying NONRESTRICTED USE pesticides on RESIDENTIAL property that they ~~own and~~ occupy or that they own which is unoccupied.
3. ~~2.~~ Authorized representatives of any educational institution engaged in research in the study of pest management or a state agency engaged in research or the study of pest management.
4. ~~Employees of political subdivisions or their designated agents while performing emergency response or rescue services.~~
5. ~~3.~~ Persons using a nonrestricted, ready to use disinfectant, sanitizer or deodorizer.
6. ~~Except as provided in section 32-2307, persons who are conducting lawn, garden, shrub or tree maintenance and who apply herbicides for the purpose of weed management. This exemption does not apply to:~~
 - (a) ~~The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.~~
 - (b) ~~The use of sterilants.~~
 - (c) ~~Persons who offer weed management as their primary service.~~
 - (d) ~~Persons who use application equipment that holds more than eight gallons of total mixed liquid herbicide.~~
 - (e) ~~Persons who use more than twenty five pounds of a nonliquid herbicide.~~
 - (f) ~~Persons who do not follow label and labeling directions.~~
7. ~~4.~~ A utility and the utility's employees if pest management services are needed for an employee's health and safety in order for the employee to continue performing work tasks.
8. ~~Except as provided in section 32-2307, volunteers of political subdivisions who apply herbicides for the purpose of the eradication and control of noxious weeds as defined in section 3-201 and who are under the immediate supervision of a licensed applicator. This exemption does not apply to:~~
 - (a) ~~The use of herbicides that are labeled with the words "restricted use" or "danger" and that are not commercially available to the general public.~~
 - (b) ~~The use of sterilants.~~
 - (c) ~~Volunteers of political subdivisions who use application equipment that holds more than eight gallons of total mixed liquid herbicide.~~
 - (d) ~~Volunteers of political subdivisions who use more than twenty five pounds of a nonliquid herbicide.~~
 - (e) ~~Volunteers of political subdivisions who do not follow label and labeling directions.~~
 - (f) ~~Volunteers of political subdivisions who have not completed an office of pest management approved herbicide application training program conducted by the political subdivision.~~

5. PERSONS USING AN OVER-THE-COUNTER ANTI-MICROBIAL TO TREAT A SWIMMING POOL.

6. PERSONS USING A DEVICE THAT IS EXEMPT PURSUANT TO SECTION 32-2304, SUBSECTION B, PARAGRAPH 18.

7. PERSONS EXEMPT PURSUANT TO SECTIONS 32-2316 OR 32-2317.

B. An employee of a political subdivision who engages in pest management:

1. ~~Is not required to be licensed under section 32-2313 or 32-2314.~~
2. ~~Must be licensed as an applicator under section 32-2312, except as provided by subsection A, paragraph 4 of this section.~~

~~C. A person who is exempt pursuant to subsection A, paragraph 6 of this section shall provide treatment records to each customer on application of herbicides for the purpose of weed management and shall retain records containing the same information provided to customers. For the purposes of this subsection, treatment records shall include all of the following:~~

- ~~1. The address of the location of the herbicide application.~~
- ~~2. The date of the herbicide application.~~
- ~~3. The trade name or common name of the herbicide applied.~~

~~D. If a person is exempt pursuant to subsection A, paragraph 6 of this section but does not comply with subsection C of this section or if a person is not licensed under this chapter and the person is not exempt pursuant to subsection A, paragraph 6 of this section as a result of doing something prescribed in subsection A, paragraph 6, subdivisions (a) through (f) of this section, the acting director shall:~~

- ~~1. On a first violation, issue a written notice of correction that contains a warning and a copy of this section and that provides full notice of the exemption requirements.~~
- ~~2. On a second violation, impose a civil penalty of not more than two hundred fifty dollars.~~
- ~~3. On a third or any subsequent violation, impose a civil penalty of not more than five hundred dollars.~~

~~E. Volunteers of political subdivisions who are not working under the immediate supervision of a licensed applicator may be subject to section 32-2304, subsection D, paragraph 12.~~

~~F. For the purposes of this section, "volunteers of political subdivisions" means persons who work without compensation other than reimbursement of actual expenses incurred or disbursement of meals or other incidental benefits.~~

B. AN INDIVIDUAL IS NOT REQUIRED TO HAVE A SEPARATE BUSINESS LICENSE TO ENGAGE IN THE BUSINESS OF PEST MANAGEMENT ON BEHALF OF A BUSINESS LICENSEE OR POLITICAL SUBDIVISION.

C. THE DIRECTOR MAY EXEMPT BY RULE FROM SECTIONS 32-2312 AND 32-2313 AND PRESCRIBE ALTERNATE REQUIREMENTS AND CONDITIONS FOR CERTIFIED APPLICATORS WHO PERFORM INSPECTIONS BUT DO NOT MAKE RECOMMENDATIONS, ESTIMATES, BIDS OR CONTRACTS FOR TREATMENT OR USE PESTICIDES OR DEVICES FOR PEST MANAGEMENT.

§ 32-2316. Political subdivisions; exemptions

A. A POLITICAL SUBDIVISION THAT USES PESTICIDES TO CONDUCT PEST MANAGEMENT ON PROPERTY OWNED, LEASED OR MANAGED BY THE POLITICAL SUBDIVISION, INCLUDING EASEMENTS:

1. IS NOT REQUIRED TO BE LICENSED UNDER SECTION 32-2312.
2. MUST HAVE A QUALIFYING PARTY REGISTERED IN THE APPROPRIATE CATEGORIES.

B. A POLITICAL SUBDIVISION MAY ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH ANOTHER POLITICAL SUBDIVISION FOR THE PURPOSE OF OBTAINING THE SERVICES OF THE OTHER POLITICAL SUBDIVISION'S QUALIFYING PARTY. A QUALIFYING PARTY FOR POLITICAL SUBDIVISIONS SHALL SEPARATELY REGISTER AS A QUALIFYING PARTY FOR EACH POLITICAL SUBDIVISION SERVED, BUT MAY NOT REGISTER AS A QUALIFYING PARTY FOR MORE THAN ONE POLITICAL SUBDIVISION WITHOUT APPROVAL FROM THE DIRECTOR.

C. AN EMPLOYEE OF A POLITICAL SUBDIVISION WHO PROVIDES PEST MANAGEMENT SERVICES MUST BE A CERTIFIED APPLICATOR EXCEPT AS PROVIDED BY SUBSECTION D OF THIS SECTION.

D. THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THE CERTIFICATION REQUIREMENTS:

1. EMPLOYEES OF POLITICAL SUBDIVISIONS WHO APPLIED PESTICIDES FOR THE POLITICAL SUBDIVISION FOR THE FIRST TIME NO MORE THAN NINETY DAYS PRIOR, BUT THIS EXEMPTION DOES NOT APPLY TO EMPLOYEES WHO APPLY PESTICIDES AT A SCHOOL OR CHILD CARE FACILITY.

2. EMPLOYEES OF POLITICAL SUBDIVISIONS OR THEIR DESIGNATED AGENTS WHILE PERFORMING EMERGENCY RESPONSE OR RESCUE SERVICES.

3. VOLUNTEERS OF POLITICAL SUBDIVISIONS WHILE APPLYING HERBICIDES FOR THE PURPOSE OF THE ERADICATION AND CONTROL OF NOXIOUS WEEDS AS DEFINED IN SECTION 3-201 AND WHO ARE UNDER THE IMMEDIATE SUPERVISION OF A CERTIFIED APPLICATOR. THIS EXEMPTION DOES NOT APPLY TO VOLUNTEERS OF POLITICAL SUBDIVISIONS WHO:

(a) APPLY HERBICIDES AT A SCHOOL OR CHILD CARE FACILITY.

(b) USE HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED USE" OR "DANGER."

(c) USE STERILANTS OR PRE-EMERGENT HERBICIDES.

(d) USE APPLICATION EQUIPMENT THAT HOLDS MORE THAN FOUR GALLONS OF TOTAL MIXED LIQUID HERBICIDE.

(e) HAVE NOT COMPLETED A **OFFICE** APPROVED HERBICIDE APPLICATION TRAINING PROGRAM CONDUCTED BY THE POLITICAL SUBDIVISION.

E. FOR THE PURPOSES OF THIS SECTION, "VOLUNTEERS" MEANS PERSONS WHO WORK WITHOUT COMPENSATION OTHER THAN REIMBURSEMENT OF ACTUAL EXPENSES INCURRED OR DISBURSEMENT OF MEALS OR OTHER INCIDENTAL BENEFITS.

§ 32-2317. Landscapers; records; civil penalties

A. THE PROVISIONS OF THIS CHAPTER REQUIRING LICENSURE AND REGISTRATION DO NOT APPLY TO A PERSON WHO CONDUCTS LAWN, GARDEN, SHRUB OR TREE MAINTENANCE AND WHO APPLIES HERBICIDES FOR THE PURPOSE OF WEED MANAGEMENT, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

B. NOTWITHSTANDING SUBSECTION A, THE LICENSURE AND REGISTRATION REQUIREMENTS OF THIS CHAPTER APPLY TO A PERSON WHO:

1. USES HERBICIDES THAT ARE LABELED WITH THE WORDS "RESTRICTED USE" OR "DANGER."

2. USES STERILANTS OR PRE-EMERGENT HERBICIDES.

3. OFFERS WEED MANAGEMENT AS THE PERSON'S PRIMARY SERVICE OR WHO ADVERTISES WEED MANAGEMENT SERVICES.

4. USES APPLICATION EQUIPMENT THAT COLLECTIVELY HOLDS MORE THAN FOUR GALLONS OF TOTAL MIXED LIQUID HERBICIDE AT AN ADDRESS OR PROJECT ON THE SAME DAY.

5. USES MORE THAN TWENTY-FIVE POUNDS OF A NONLIQUID HERBICIDE AT AN ADDRESS OR PROJECT ON THE SAME DAY.

6. USES OR IS PART OF A CREW OF TWO OR MORE HERBICIDE APPLICATORS AT AN ADDRESS OR PROJECT ON THE SAME DAY.

7. USES AN HERBICIDE AT A SCHOOL OR CHILD CARE FACILITY.

8. USES AN HERBICIDE AT AN ADDRESS OR PROJECT WITHOUT PERFORMING LAWN, GARDEN, SHRUB OR TREE MAINTENANCE AT THAT ADDRESS OR PROJECT ON THE SAME DAY.

C. A PERSON WHO IS EXEMPT FROM LICENSURE AND REGISTRATION PURSUANT TO THIS SECTION SHALL PROVIDE TREATMENT RECORDS TO EACH CUSTOMER ON APPLICATION OF HERBICIDES FOR THE PURPOSE OF WEED MANAGEMENT AND SHALL RETAIN RECORDS CONTAINING THE SAME INFORMATION PROVIDED TO CUSTOMERS FOR NOT LESS THAN SIX MONTHS FROM THE DATE OF THE TREATMENT. FOR THE PURPOSES OF THIS SUBSECTION, TREATMENT RECORDS SHALL INCLUDE ALL OF THE FOLLOWING:

1. THE ADDRESS OF THE LOCATION OF THE HERBICIDE APPLICATION.

2. THE DATE OF THE HERBICIDE APPLICATION.

3. THE TRADE NAME OR COMMON NAME OF THE HERBICIDE APPLIED.

4. THE AMOUNT OF HERBICIDE APPLIED.

5. THE NAME OF THE INDIVIDUAL WHO PERFORMED THE TREATMENT.

D. IF A PERSON IS EXEMPT FROM LICENSURE AND REGISTRATION PURSUANT TO SUBSECTION A OF THIS SECTION BUT DOES NOT COMPLY WITH SUBSECTION C OF THIS SECTION, THE DIRECTOR SHALL:

1. ON A FIRST VIOLATION, ISSUE A WRITTEN NOTICE OF CORRECTION THAT CONTAINS A WARNING AND A COPY OF THIS SECTION.

2. ON A SECOND VIOLATION, IMPOSE A CIVIL PENALTY OF NOT LESS THAN FIFTY DOLLARS.

3. ON A THIRD OR ANY SUBSEQUENT VIOLATION, IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

E. IF A PERSON IS NOT EXEMPT FROM LICENSURE AND REGISTRATION BUT USES A HERBICIDE FOR THE PURPOSE OF WEED MANAGEMENT, THE DIRECTOR MAY:

1. ISSUE A CEASE AND DESIST ORDER AND AN ADMINISTRATIVE WARNING.

2. ON A FIRST VIOLATION, IMPOSE A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND DOLLARS.

3. ON A SECOND OR ANY SUBSEQUENT VIOLATION, IMPOSE A CIVIL PENALTY OF NOT MORE THAN TWO THOUSAND DOLLARS.

§ 32-2317 32-2318. Fees

A. The ~~acting~~ director shall establish and collect APPLICATION AND RENEWAL fees ~~that may include service charges allowed pursuant to section 32-2304 for persons who pay with alternative payment methods, including credit cards, charge cards, debit cards and electronic transfers, but~~ that may not exceed the following amounts PER YEAR:

~~1. Qualifying party license application fee, one hundred fifty dollars.~~

~~2. Qualifying party license renewal fee, one hundred fifty dollars.~~

~~3. Qualifying party license renewal fee, inactive status, twenty five dollars.~~

~~4. Temporary qualifying party license application fee, twenty five dollars.~~

~~5. 1. Business license application fee, one hundred five thousand dollars.~~

~~6. Business license renewal fee, one hundred dollars.~~

~~7. 2. Branch office registration ~~application~~ fee, two hundred fifty dollars.~~

~~8. Branch office registration renewal fee, fifty dollars.~~

~~9. Late renewal penalty fee, double the prescribed renewal fee.~~

~~10. 3. Qualifying party license status change, inactive to active, one hundred twenty five REGISTRATION, ONE HUNDRED dollars.~~

4. TEMPORARY QUALIFYING PARTY REGISTRATION, ONE HUNDRED DOLLARS.

5. BRANCH SUPERVISOR REGISTRATION, ONE HUNDRED DOLLARS.

~~11. 6. Applicator license application, thirty CERTIFICATION, FIVE HUNDRED dollars.~~

~~12. Applicator license annual renewal, twenty five dollars.~~

7. QUALIFIED APPLICATOR CERTIFICATION, FIVE HUNDRED DOLLARS.

8. EMPLOYEE REGISTRATION, ONE HUNDRED DOLLARS PER EMPLOYEE.

~~13. 9. Duplicate license identification card, ten~~ OR REGISTRATION, FIFTY dollars.

B. THE DIRECTOR MAY CHARGE AND COLLECT LATE FEES AS A PENALTY IN ADDITION TO THE FEES LISTED IN SUBSECTION A OF THIS SECTION.

C. THE DIRECTOR MAY ESTABLISH TIERED FEES FOR BUSINESS LICENSES.

D. The ~~office~~ DIRECTOR may charge and collect additional fees for services that the ~~acting~~ director considers to be appropriate to carry out the intent and purpose of this chapter. These additional fees shall not exceed the costs of rendering the services.

~~§ 32-2319. Continuing education~~

REPEAL

ARTICLE 3. REGULATION SCHOOLS; WOOD-DESTROYING ORGANISMS**§ ~~32-2307.~~ 32-2321. ~~Notification of pesticide~~ Pesticide applications to schools and child care facilities; notification; exemptions; definitions****A. ONLY A CERTIFIED APPLICATOR MAY APPLY PESTICIDES AT A SCHOOL OR CHILD CARE FACILITY.**

~~B.~~ A business licensee or ~~licensed~~ CERTIFIED applicator shall notify a school or a child care facility at least seventy-two hours in advance of any pesticide application in order to permit the school to comply with section 15-152 and the child care facility to comply with section 36-898. The seventy-two hour advance notice shall include the date and time the application is to occur. The seventy-two hour advance notice shall also include the brand name, concentration, rate of application, pesticide label and material safety data sheet and any use restrictions required by the pesticide label. ~~Only an individual holding an applicator license may make pesticide applications at schools and child care facilities.~~

~~B. C.~~ Immediately prior to application of a ~~pesticide~~ PESTICIDE, a business licensee or ~~licensed~~ CERTIFIED applicator shall provide the school or child care facility with a written preapplication notification containing the following information:

1. The brand name, concentration and rate of application and any use restrictions required by the label of the herbicide or specific pesticide.
2. The area or areas where the pesticide is to be applied.
3. The date and time the application is to occur.
4. The pesticide label and the material safety data sheet.

~~C. D.~~ The pesticide label and material safety data sheet may be used in place of the ANY information required pursuant to subsections ~~A and B AND C~~ of this section if ~~all of the information required by those subsections~~ is already contained on the PESTICIDE label or material safety data sheet.

~~D. E.~~ The following pesticide applications are exempt from the notification requirement prescribed in subsections ~~A and B AND C~~ of this section:

1. Nonresidual pesticide applications performed or contracted by public health agencies for adult vector control, provided that oral notification is attempted at least seventy-two hours before the application, when possible, to the school office or child care facility office with a statement of the pest problem, treatment procedure, area to be treated and approximate time of the application.
2. Emergency applications of a pesticide that has a toxicity category of III or IV pursuant to 40 Code of Federal Regulations section 156.62 to control harmful pests that pose an immediate threat to the public health. Under the circumstances described in this paragraph or paragraph 1 of this subsection, the business licensee or ~~licensed~~ CERTIFIED applicator shall do all of the following:
 - (a) Notify the school office or child care facility office before the application with a statement of the pest problem, treatment procedure, area to be treated and approximate time of application.
 - (b) Immediately after the application has been completed, notify the school office or the child care facility office of the name of the pesticide applied, the formulation, the strength and dosage and the date and time of application and provide the pesticide label.
 - (c) Post the treated area immediately after the application. The posting shall be at least eight and one-half inches by eleven inches and shall include the name of the pesticide, the registration number issued by the United States environmental protection agency, the date and time of application and the name and telephone number of the business licensee and ~~licensed~~ CERTIFIED applicator. A copy of the posting shall also be placed at the main entrance to the school or child care facility. The posting and the copy of the posting shall remain in place for at least forty-eight hours after the application.
3. Disinfectants or swimming pool chemicals.
4. Block, gel or paste-type bait that is a toxicity category III or IV formulation of insecticide pursuant to 40 Code of Federal Regulations section 156.62 and that is either of the following:

(a) Secured in an enclosed, tamper-resistant bait station and placed in an area that is inaccessible to children.

(b) Applied to a crack or crevice inaccessible to children.

5. Block-type bait that is a toxicity level III or IV formulation of rodenticide pursuant to 40 Code of Federal Regulations section 156.62 and that is secured in an enclosed, tamper-resistant bait station placed in an area inaccessible to children.

6. Personal repellants.

7. Any pesticide exempt from regulation by the United States environmental protection agency pursuant to the federal insecticide, fungicide and rodenticide act (7 United States Code section 136w).

8. NONRESTRICTED USE SANITIZERS AND DEODORIZERS.

~~E. The provisions of this chapter shall regulate and determine all requirements regarding licenses, fees, testing, education, and all other requirements regarding the business of pest control for persons licensed pursuant to this chapter.~~

~~F. For the purposes of this section:~~

~~1. "Child care facility" means a facility regulated pursuant to title 36, chapter 7.1.~~

~~2. "Pesticides" does not include nonrestricted use disinfectants, sanitizers or deodorizers.~~

~~3. "School" means an educational institution that provides instruction in prekindergarten programs, kindergarten programs or any of grades one through twelve.~~

§ 32-2322. Termite Action Registration Form

A. WITHIN THIRTY CALENDAR DAYS AFTER COMPLETION OF A PRETREATMENT, A NEW-CONSTRUCTION TREATMENT, A FINAL GRADE TREATMENT, AN INITIAL CORRECTIVE TREATMENT OR A WOOD-DESTROYING INSECT INSPECTION REPORT, A BUSINESS LICENSEE OR CERTIFIED APPLICATOR SHALL FILE WITH THE OFFICE IN A FORM APPROVED BY THE DIRECTOR A TERMITE ACTION REGISTRATION FORM AND THE PRESCRIBED FEE.

B. THE TERMITE ACTION REGISTRATION FORM SHALL INCLUDE:

1. THE ADDRESS OR LOCATION OF THE WORK OR PROJECT.

2. THE TYPE AND THE DATE OF THE WORK.

3. THE NAME OF THE BUSINESS LICENSEE.

4. ANY OTHER INFORMATION REQUIRED BY RULE.

C. THE DIRECTOR MAY:

1. ADJUST THE FEE UPWARD OR DOWNWARD TO A LEVEL THAT IS CALCULATED TO PRODUCE SUFFICIENT REVENUE TO CARRY OUT THE FUNCTIONS OF THE OFFICE PRESCRIBED UNDER THIS CHAPTER.

2. ESTABLISH TIERED FEES ACCORDING TO THE MEANS OF SUBMISSION TO ENCOURAGE ELECTRONIC SUBMISSION OF THE TERMITE ACTION REGISTRATION FORM.

3. ASSESS A PENALTY OF NOT TO EXCEED ONE HUNDRED DOLLARS PER FORM FOR FAILING TO SUBMIT THE REQUIRED FORM OR FEE, OR BOTH, WITHIN THIRTY CALENDAR DAYS.

D. IF THE BUSINESS LICENSEE WHO PERFORMS AN INITIAL CORRECTIVE TREATMENT PERFORMED THE PRETREATMENT OR NEW-CONSTRUCTION TREATMENT AT THE SAME SITE AND FILED A TERMITE ACTION REPORT FORM WITH THE OFFICE DOCUMENTING THE PRETREATMENT OR NEW-CONSTRUCTION TREATMENT, THE BUSINESS LICENSEE IS EXEMPT FROM THIS SECTION WITH RESPECT TO THE INITIAL CORRECTIVE TREATMENT.

§ 32-2323. Wood-destroying ~~insects~~; organisms; treatment proposal; ~~registration form~~; fee

A. A business licensee shall not commence work on a contract or sign, issue or deliver any documents expressing an opinion or making a statement relating to the presence or absence of wood-destroying ~~insects~~ ORGANISMS in a structure until an inspection is made.

B. Only an applicator ~~or qualifying party licensed~~ CERTIFIED in the categories CATEGORY of wood-destroying ~~insect~~ ORGANISM management ~~and wood-destroying insect inspection~~ shall prepare a treatment proposal on a form approved by the ~~acting director and~~ DIRECTOR. THE APPLICATOR shall deliver a copy of the treatment proposal to the person requesting the ~~proposal~~, PROPOSAL OR TREATMENT, or the person's designated agent, before beginning treatment. The treatment proposal shall include the following information:

1. The address of the property to be treated.
2. A statement describing that the work is preventative or corrective.
3. A statement describing the evidence of infestation or damage.
4. A diagrammatic description showing the nature and location of evidence of infestation or damage, or both, if applicable.
5. A statement describing the treatment or repair method, including the name of the pesticide, ~~agent~~ or device to be used and a diagrammatic description showing where the treatment or repair will be rendered.
6. The price for the work.
7. The terms for the service agreement provided by the business licensee.
8. The signature and license number of the person who made the inspection of the structure to be treated.

C. A licensee CERTIFIED APPLICATOR shall also give to the person requesting a proposal OR TREATMENT a written recommendation that verifies a particular problem and, in addition to the licensee's CERTIFIED APPLICATOR'S recommendation for treatment, shall advise the person of alternative treatments and methods, including integrated pest management methods to alleviate the problem.

D. A treatment proposal shall not be in the same form or be construed as a wood-destroying insect inspection report. A treatment proposal that does not identify infestation by wood-destroying ~~insects~~ ORGANISMS is not a binding statement as to the presence or absence of wood-destroying ~~insects~~ ORGANISMS.

E. A treatment proposal shall be prepared by a ~~licensed~~ CERTIFIED applicator ~~or qualifying party~~ who has received at least five hours of instruction from ~~the office or~~ an in-house education program of a THE business licensee on the subject of wood-destroying ~~insect~~ ORGANISM inspections. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the ~~acting~~ director's request.

F. If a business licensee performs a treatment pursuant to a treatment proposal, the business licensee shall maintain for ~~five~~ THREE years a record of the treatment and the name and quantity of the pesticide used.

~~G. Within thirty calendar days after completion of a termite treatment or on the next business day after the thirty calendar days, a business licensee shall file with the office in a form or format approved by the acting director a complete and accurate termite action registration form and a fee as prescribed by the acting director. The termite action registration form shall include information prescribed in section 32-2321, subsection C, paragraph 11 and this section. This subsection only applies to the following:~~

- ~~1. Any treatments done before or during construction, including final grade treatments.~~
- ~~2. The first preventative or corrective termite treatment by a business licensee to a site. If the business licensee who performed this termite treatment performed the before or during construction treatment at the same site and filed a termite action report form with the office documenting the before or during construction treatment, the business licensee is exempt from this paragraph.~~
- ~~3. A wood-destroying insect inspection report.~~

G. THIS SECTION DOES NOT APPLY TO THE APPLICATION OF PESTICIDES DIRECTLY TO STRUCTURAL COMPONENTS OF WOOD OR WOOD PRODUCTS, WHICH ARE NOT PART OF AN EXISTING STRUCTURE NORMALLY HABITABLE BY PERSONS, TO PREVENT OR MANAGE WOOD DEGRADATION BY WOOD-DESTROYING ORGANISMS.

§ 32-2324. Wood-destroying insect inspection reports

A. Wood-destroying insect inspection reports may only be completed by an applicator ~~or qualifying party~~ who is licensed ~~CERTIFIED~~ in the ~~categories of management~~ CATEGORY of wood-destroying insects and ORGANISM MANAGEMENT OR wood-destroying insect inspection and who has received at least five hours of instruction from ~~the office or the former structural pest control commission~~ or an in-house education program of a THE business licensee on the subject of wood-destroying insect inspection reports. An examination on the instruction is not required. The business licensee shall keep a record of completion of the training and shall make the record available on the ~~acting~~ director's request.

B. Wood-destroying insect inspection reports shall be on file in the office of the business licensee within seven calendar days after the completion of an inspection. The business licensee shall retain a copy of all completed wood-destroying insect inspection reports for ~~five~~ THREE years and make the reports available on the ~~acting~~ director's request.

C. Wood-destroying insect inspection reports are evidence of BOTH the existence or absence of wood-destroying insects AND CONDITIONS CONDUCTIVE TO WOOD-DESTROYING INSECTS that were visible and accessible to an inspector ~~on the date~~ AT THE TIME the inspection was made. A business licensee remains responsible for the accuracy of the inspection and the report as evidence of the presence or absence of infestation AND CONDITIONS CONDUCTIVE TO INFESTATION on the date of inspection, except that a wood-destroying insect inspection report shall not be construed as a guarantee as to the presence or absence of wood-destroying insects OR CONDITIONS CONDUCTIVE TO WOOD-DESTROYING INSECTS in a structure after the date of inspection.

D. IF A CERTIFIED APPLICATOR IS EXEMPT FROM THE BUSINESS LICENSE REQUIREMENT WITH RESPECT TO WOOD-DESTROYING INSECT INSPECTIONS BY RULES ESTABLISHED BY THE DIRECTOR, THE CERTIFIED APPLICATOR SHALL FULFILL THE RESPONSIBILITIES PLACED ON BUSINESS LICENSEES IN THIS SECTION.

E. A PERSON SHALL NOT COMPLETE A WOOD-DESTROYING INSECT INSPECTION REPORT FOR A PROPERTY THAT THE PERSON OWNS OR OCCUPIES.

~~§ 32-2324.01. Fungi inspection reports~~

REPEAL

ARTICLE 4. REGULATION

§ ~~32-2325~~ 32-2331. Unlawful acts

A. A person shall not:

1. Engage in the business of pest management without ~~holding~~ a business license issued pursuant to this chapter UNLESS EXEMPT.
2. Engage in the business of pest management in any category without a qualifying party ~~licensed~~ REGISTERED in that category.
3. Operate a branch office without ~~employing a licensed applicator or qualifying party~~ A REGISTERED BRANCH SUPERVISOR under whose direct supervision pesticide applications are made out of that office.
4. Apply pesticides in any category other than ~~the control of wood-destroying insects~~ ORGANISMS MANAGEMENT OR FUMIGATION unless the person is ~~an~~ A CERTIFIED applicator ~~or qualifying party licensed~~ in that category ~~pursuant to this chapter~~ or applies the pesticides under the direct supervision of ~~an~~ A CERTIFIED applicator ~~or qualifying party licensed~~ in that category ~~pursuant to this chapter~~.
5. Apply pesticides ~~for the management~~ IN THE CATEGORY of wood-destroying ~~insects~~ ORGANISM MANAGEMENT, AQUATIC PEST MANAGEMENT, OR FUMIGATION unless ~~both of the following apply:~~
 - (a) ~~The~~ THE person is ~~an~~ A CERTIFIED applicator ~~or qualifying party licensed~~ in that category ~~pursuant to this chapter~~ or the person applies the pesticides under the immediate supervision of ~~a licensed~~ AN applicator CERTIFIED IN THAT CATEGORY.
 - (b) ~~The person has received at least five hours of instruction from the office or the former structural pest control commission or an in-house education program of a business licensee on the subject of management of wood-destroying insects that is appropriate for the specific type of application performed. An examination on the instruction is not required. A business licensee shall keep a record of completion of the training and shall make it available on the acting director's request.~~
6. Make recommendations regarding pest management unless the person is a ~~licensed~~ CERTIFIED applicator ~~or qualifying party~~.
7. Deny to an authorized inspector the right to be present on a jobsite in connection with a contemporaneous pest management treatment ~~for the purpose of taking samples~~, including FOR THE PURPOSE OF TAKING pesticide samples and soil samples.

B. THE FOLLOWING NONEXCLUSIVE ACTS ARE GROUNDS FOR DISCIPLINARY ACTION:

1. VIOLATING THIS CHAPTER, RULES ADOPTED PURSUANT TO THIS CHAPTER OR A WRITTEN ORDER OF THE DIRECTOR.
2. MAKING FALSE OR FRAUDULENT RECORDS OR REPORTS.
3. MISREPRESENTING A MATERIAL FACT IN OBTAINING A LICENSE.
4. APPLYING PESTICIDES IN A MANNER THAT IS INCONSISTENT WITH THE LABEL AND LABELING REQUIREMENTS OF THE PESTICIDE OR THAT MAY CAUSE HARM TO THE PUBLIC, THE ENVIRONMENT OR NON-TARGET ANIMALS.
5. MISUSE OF A PESTICIDE IF THE MISUSE IS DUE TO THE FAILURE OF THE PERSON TO PROPERLY TRAIN OR SUPERVISE. PROPER TRAINING INCLUDES TRAINING TO READ AND UNDERSTAND THE LABEL AND LABELING AND TO UNDERSTAND THE PROPER USE OF APPLICATION EQUIPMENT. PROPER SUPERVISION INCLUDES OVERSIGHT OF APPLICATORS TO ENSURE GENERAL COMPLIANCE WITH THE LABEL, LABELING AND ALL APPLICABLE LAWS.

6. AUTHORIZING, DIRECTING OR ABETTING THE PUBLICATION, ADVERTISEMENT, DISTRIBUTION OR CIRCULATION OF ANY FALSE STATEMENT OR MATERIAL MISREPRESENTATION CONCERNING A BUSINESS OF PEST MANAGEMENT.

7. ENGAGING IN THE BUSINESS OF PEST MANAGEMENT OR PROVIDING PEST MANAGEMENT SERVICES UNDER A SUSPENDED LICENSE.

8. CONVICTION OF A FELONY, A MISDEMEANOR ARISING FROM OR IN CONNECTION WITH A LICENSE ISSUED PURSUANT TO THIS CHAPTER AFTER ISSUANCE OF THE LICENSE, OR A MISDEMEANOR INVOLVING MORAL TURPITUDE.

9. HAVING HAD A LICENSE, OR THE EQUIVALENT, TO APPLY PESTICIDES OR ENGAGE IN THE BUSINESS OF PEST MANAGEMENT SUSPENDED OR REVOKED IN ANOTHER JURISDICTION FOR CAUSE.

10. MAKING A FRAUDULENT STATEMENT OR AN INTENTIONAL MATERIAL MISREPRESENTATION IN CONNECTION WITH A WOOD TREATMENT PROPOSAL OR A WOOD-DESTROYING INSECT INSPECTION REPORT.

11. THREE OR MORE DE MINIMIS VIOLATIONS OF THIS CHAPTER OR RULES ADOPTED UNDER THIS CHAPTER.

12. FAILURE TO PROVIDE THE DIRECTOR WITH A CURRENT CERTIFICATE OF INSURANCE OR PROOF OF FINANCIAL RESPONSIBILITY.

13. FAILURE TO PROVIDE A PROPER FINAL GRADE TREATMENT WITHIN TWELVE MONTHS OF THE ORIGINAL PRETREATMENT OR NEW-CONSTRUCTION TREATMENT.

14. IMMEDIATELY SUPERVISING MORE UNLICENSED APPLICATORS AT A TIME THAN AUTHORIZED BY RULE.

15. FAILURE TO MAKE AND MAINTAIN TRUE AND ACCURATE RECORDS OF TREATMENTS PERFORMED OR WOOD-DESTROYING INSECT INSPECTION REPORTS, INCLUDING THOSE PERFORMED UNDER WARRANTY OR GUARANTEE, FOR AT LEAST THREE YEARS FROM DATE OF TREATMENT OR INSPECTION.

16. FAILURE TO MAKE TREATMENT RECORDS AVAILABLE WITHIN THREE BUSINESS DAYS ON REQUEST OF THE PROPERTY OWNER OR THE PROPERTY OWNER'S AUTHORIZED AGENT.

17. FAILURE TO PERMIT THE DIRECTOR OR ANY DULY AUTHORIZED AGENT TO PROMPTLY INSPECT RECORDS PERTAINING TO PEST MANAGEMENT LOCATED AT AN OFFICE OF A BUSINESS LICENSEE WHEN AN EMPLOYEE OF THE BUSINESS LICENSEE IS PRESENT AT THE BUSINESS OFFICE AND HAS ACCESS TO THOSE RECORDS.

18. FAILURE TO TIMELY PRODUCE SPECIFIC RECORDS REQUESTED PURSUANT TO SECTION 32-2304, SUBSECTION B, PARAGRAPH 4.

19. VIOLATING THE TERMS OF A CONSENT AGREEMENT OR ORDER.

~~§ 32-2321~~ **32-2332. Disciplinary action; grounds; procedure; judicial review**

~~A. After an opportunity for a formal hearing or pursuant to a consent order, the acting~~ **IF THE DIRECTOR FINDS THAT A PERSON HAS VIOLATED THIS CHAPTER, A RULE ADOPTED PURSUANT TO THIS CHAPTER, OR A WRITTEN ORDER, THE** director may **ISSUE A NOTICE OF VIOLATION AND A CEASE AND DESIST ORDER TO THE PERSON AND, AFTER AN OPPORTUNITY FOR A HEARING,** take any of the following disciplinary actions, in combination or alternatively:

1. Revoke a license OR REGISTRATION.
2. Suspend a license OR REGISTRATION.
3. Refuse to renew a license OR REGISTRATION.

4. Impose probation requirements that require a ~~business licensee, licensed applicator or qualifying party~~ PERSON to comply with one or more specific provisions of this chapter or rules adopted pursuant to this chapter and that require reporting by or monitoring of the ~~business licensee, licensed applicator or qualifying party~~ PERSON.
5. Impose a civil penalty in an amount of not more than one thousand dollars for each violation except for grounds prescribed in subsection B, paragraphs 8 and 9 of ~~this section~~ 32-2331.
6. Require a qualifying party to report to the ~~acting~~ director the qualifying party's role in the management of a business license.
7. ~~Issue an administrative warning.~~ REQUIRE AN INDIVIDUAL TO TAKE SUPPLEMENTAL CONTINUING EDUCATION WITHIN A PERIOD SET BY THE DIRECTOR.

B. IN LIEU OF TAKING DISCIPLINARY ACTION FOR A VIOLATION PURSUANT TO SUBSECTION A OF THIS SECTION, THE DIRECTOR MAY ISSUE AN ADMINISTRATIVE WARNING.

B. The following acts are grounds for disciplinary action:

1. ~~Violating this chapter, rules adopted pursuant to this chapter or a written order of the acting director.~~
2. ~~Making false or fraudulent records or reports.~~
3. ~~Misrepresenting a material fact in obtaining a license.~~
4. ~~Applying pesticides in a manner that is inconsistent with the label requirements of the pesticide or that may cause undue harm to the public.~~
5. ~~Misuse of a pesticide if the misuse is due to training received or not received or lack of appropriate supervision. Proper training includes training to read and understand the label and labeling and to understand the proper use of application equipment. Proper supervision includes oversight of applicators to ensure general compliance with the label, labeling and all applicable laws.~~
6. ~~Authorizing, directing or abetting the publication, advertisement, distribution or circulation of any false statement or material misrepresentation concerning a business of pest management.~~
7. ~~Conviction of a felony or misdemeanor arising from or in connection with a license issued pursuant to this chapter after issuance of the license.~~
8. ~~Conviction of a felony.~~
9. ~~Having had a license, or the equivalent, to apply pesticides or engage in the business of pest management suspended or revoked in another jurisdiction for cause.~~
10. ~~Making a fraudulent statement or an intentional material misrepresentation in connection with a wood treatment proposal or a wood-destroying insect inspection report.~~
11. ~~Three or more de minimis violations of this chapter or rules adopted under this chapter.~~
12. ~~Failure to provide the acting director with a current certificate of insurance or proof of financial responsibility.~~
13. ~~Failure to establish a complete vertical barrier at the exterior of foundation walls in stem wall construction or exterior of grade beams in monolithic construction within twelve months of the original treatment made before or during construction.~~
14. ~~Immediately supervising more than one unlicensed applicator at a time.~~
15. ~~Failure to make and maintain true and accurate records of treatments performed, including those performed under warranty or guarantee, for at least three years from date of treatment except any record of a termite treatment, a wood-destroying insect inspection report or a fungi inspection report, which shall be made and maintained for at least five years from the date of treatment or inspection.~~
16. ~~Failure to make treatment records available within three business days on request of the property owner, the property owner's authorized agent or a representative of the office.~~

C. Except as provided in section ~~32-2329~~, 41-1092.11, the ~~acting~~ director may ~~proceed~~ TAKE DISCIPLINARY ACTION against a business licensee pursuant to subsection A, paragraphs 1 through 5 ~~A~~ of this section only if, ~~after an opportunity for a hearing, it has been shown that~~ IF any of the following ~~applies~~: APPLY:

1. The business licensee has committed a prior violation of the same type, including any violation by any employee of the business licensee.
2. The business licensee failed to follow a written order of the ~~acting~~ director directing it to correct a deficiency or problem within the time specified.
3. The business licensee has knowingly assumed operations for a business licensee whose license has been revoked and during the first three years after revocation allows the former licensee to play an active role in company policy, decisions, sales or supervision of employees.
4. The business licensee is convicted of a felony.
5. The business licensee is determined by the ~~acting~~ director to have committed a violation in connection with a PRETREATMENT, NEW-CONSTRUCTION TREATMENT, OR FINAL GRADE treatment ~~before or during construction~~.

~~6. The business licensee changes its name or majority ownership of the business and fails to:~~

~~(a) Report to the acting director within thirty calendar days the status of all warranties issued by the licensee.~~

~~(b) Notify within thirty calendar days all persons who hold warranties issued by the licensee regarding the change.~~

6. THE BUSINESS LICENSEE USES APPLICATORS TO PROVIDE PEST MANAGEMENT SERVICES THAT ARE NOT REGISTERED PURSUANT TO REQUIREMENTS ESTABLISHED UNDER SECTION 32-2304(B)(20).

7. The business licensee fails to provide written notice immediately following a pest management treatment in or around residential structures of four or fewer units to the person requesting the treatment or to the person's designated agent. The notice shall include the specific pesticide by trade name used in the treatment.
8. The business licensee performing pest management treatments on an ongoing basis to locations other than residential structures of four or fewer units fails to provide written notice to the person who requested the treatments or the person's designated agent. Notice shall be given before the first application of the pesticide and when new or additional pesticides are used or immediately after each treatment.
9. If the treatments are performed in the interior of residential units, the licensee fails to leave a notice in the interior of each treated unit immediately after each treatment. The notice shall include the pesticide by trade name and any other information as required by the pesticide label or local ordinance.
10. A statement of precaution does not accompany each notification of treatment required in paragraphs 7, 8 and 9 of this subsection. Each statement of precaution shall be printed conspicuously, in not less than eight point type, and shall include the words:

Warning--pesticides can be harmful. Keep children and pets away from pesticide applications until dry, dissipated or aerated. For more information contact [business license name and business license number] at [telephone number].

11. The business licensee fails within thirty calendar days after completion of a ~~termite~~ PRETREATMENT, A NEW-CONSTRUCTION TREATMENT, A FINAL GRADE treatment ~~that is done before or during construction~~, an initial termite corrective treatment project or a wood-destroying insect inspection report to file with the office, in a form approved by the ~~acting~~ director, ~~all data required by the acting director~~ THE TERMITE ACTION REGISTRATION FORM AND PRESCRIBED FEE. ~~The data shall include:~~

- ~~(a) The name of the individual who performed the work.~~
- ~~(b) The address or location of the work or project.~~
- ~~(c) The type and the date of the work.~~
- ~~(d) The name of the business licensee.~~
- ~~(e) The name of the qualifying party.~~

~~(f) The applicator's license number.~~

~~(g) Any other information required by rule.~~

12. The business licensee, within twelve months after completion of a termite PRETREATMENT OR NEW-CONSTRUCTION treatment ~~that is done before or during construction~~, fails either to file a supplemental termite action report in a form provided by the ~~acting~~ director that indicates the completion of the final grade treatment or to report in writing why the treatment has not been completed and when it will be completed.

13. THE BUSINESS LICENSEE'S APPLICATOR APPLIES A PESTICIDE THAT CAUSES HARM TO THE PUBLIC, THE ENVIRONMENT, OR A NON-TARGET ANIMAL.

14. THE BUSINESS LICENSEE FAILS WITHIN THIRTY CALENDAR DAYS TO PAY CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

15. THE BUSINESS LICENSEE ENGAGES IN THE BUSINESS OF PEST MANAGEMENT WHILE THE BUSINESS LICENSE IS SUSPENDED.

~~D. Nothing in subsection C, paragraph 3 of this section shall be deemed to prohibit a business licensee from directly purchasing accounts from a licensee whose license has been revoked if the purchase is made within such time after the revocation as the acting director by rule may establish.~~

~~E. Before taking any action pursuant to this section, the acting director shall notify in writing interested persons and the licensee before the date of the hearing pursuant to title 41, chapter 6, article 10 either personally or by certified mail at the last address known to the office. The written notice shall contain the nature of the charge or charges against the licensee and the time and place of the hearing on the charges.~~

~~F. A license may be suspended without a hearing as prescribed in section 32-2329 or if its holder fails within thirty calendar days to:~~

~~1. Pay renewal fees.~~

~~2. Pay civil penalties.~~

~~3. Demonstrate the completion of required continuing education.~~

~~G. The holder of a license suspended under subsection F of this section must apply to the acting director for reinstatement.~~

~~H. Licenses suspended under subsection F of this section are automatically revoked without a hearing after one year of suspension. Licenses revoked under this section are not subject to section 32-2304, subsection A, paragraph 11.~~

~~I. All complaints shall be in writing.~~

~~J. If the acting director appoints an employee of the office to conduct an informal settlement conference with the complaining party pursuant to section 32-2304, the purpose of the informal settlement conference is to reach agreement as to the disposition of all or a portion of the complaint, including any agreement providing for repairing or rectifying the conditions specified in the complaint. The settlement conference shall be conducted informally and the rules of evidence do not apply. The settlement conference shall not be recorded. Participants in the settlement conference may ask questions of the complainant and may review any materials or reports compiled by the office with respect to the complaint.~~

~~K. If the office prepares a consent order pursuant to section 32-2304, after either an informal settlement conference conducted pursuant to subsection J of this section or a formal hearing by the office conducted pursuant to title 41, chapter 6, article 10, the consent order shall only set forth the general nature of the inquiry or complaint, the specific action to be taken by the licensee or business licensee, the penalty, if any, and the time for compliance, if any, for any corrective action to be taken.~~

~~L. Except as provided in section 41-1092.08, subsection H, final decisions of the acting director are subject to judicial review pursuant to title 12, chapter 7, article 6.~~

~~M. D. The acting director shall consider only an inquiry received or complaint filed within NOT ISSUE A CITATION OR FILE A COMPLAINT FOR A VIOLATION MORE THAN five years after the date of the alleged act or omission.~~

~~N. E.~~ The ~~acting~~ director may issue an advisory notice stating de minimis violations of statutes or rules that carry no penalty, unless the person subject to this chapter wilfully and repeatedly violates the statute or rule. For wilful and repeated violations, the ~~acting~~ director may take disciplinary action against the person for a violation.

~~O. If the office finds a violation or the office enters into a consent agreement, the office:~~

- ~~1. Shall not delete the record of the complaint for at least five years following the filing of the complaint.~~
- ~~2. Shall include information from the inquiry in the record of complaint. If no violation is found, the information from the inquiry shall be deleted.~~

~~P. Only this chapter applies to, regulates and determines all requirements regarding licensure, licensure fees, testing and education related to pest management in this state. Only this chapter applies to, regulates and determines all requirements regarding the business of pest management, including the application or notification of use or disposal of pesticides for pest management in this state.~~

~~Q. For purposes of filing or submitting all documents or fees required under this chapter, service is considered complete if postmarked on the proper date and delivered by first class mail or a higher class.~~

F. THE LICENSE OF A PERSON WHO DOES NOT RENEW THE LICENSE AND WHO HAS BEEN ADVISED IN WRITING THAT AN INVESTIGATION OR COMPLAINT IS PENDING AT THE TIME THE LICENSE IS DUE TO EXPIRE OR TERMINATE DOES NOT EXPIRE OR TERMINATE UNTIL THE INVESTIGATION OR COMPLAINT IS RESOLVED. THE LICENSE IS SUSPENDED ON THE DATE IT WOULD OTHERWISE EXPIRE OR TERMINATE UNTIL THE LICENSEE RENEWS THE LICENSE OR THE INVESTIGATION OR COMPLAINT IS RESOLVED.

G. THE DIRECTOR MAY SUMMARILY SUSPEND A LICENSE WHILE THERE IS A PENDING CRIMINAL CHARGE AGAINST THE LICENSEE FOR A CRIME INVOLVING MORAL TURPITUDE.

§ 32-2308. 32-2333. Joint responsibility for supervised persons

A. A business licensee, qualifying party, BRANCH SUPERVISOR, or applicator may be held jointly responsible for the acts or omissions of another person who is under the supervision of the business licensee, qualifying party, BRANCH SUPERVISOR, or applicator if the supervising licensee fails to properly train, equip or supervise the other person or fails to maintain records of proper training, equipping or supervising.

B. Failure to timely and fully respond to requests by the ~~acting~~ director for information relating to training, equipping and supervising is a prima facie showing of a failure to properly train, equip or supervise. ~~The A supervising licensee has the burden of proof by a preponderance of the evidence that the business licensee, qualifying party, BRANCH SUPERVISOR or applicator~~ HAS THE BURDEN OF PROOF BY A PREPONDERANCE OF THE EVIDENCE THAT THE SUPERVISING PERSON has fulfilled the required duties as prescribed by this chapter, rules adopted pursuant to this chapter or a written order of the ~~acting~~ director.

§ 32-2334. Civil penalties; suspension

A. THE OFFICE MAY SUSPEND A LICENSE, CERTIFICATION OR REGISTRATION WITHOUT A HEARING IF THE LICENSEE FAILS WITHIN THIRTY CALENDAR DAYS TO PAY CIVIL PENALTIES IMPOSED UNDER THIS CHAPTER OR THE RULES ADOPTED PURSUANT TO THIS CHAPTER.

B. A LICENSEE SUSPENDED UNDER SUBSECTION A OF THIS SECTION MUST APPLY TO THE DIRECTOR FOR REINSTATEMENT.

C. A LICENSE, CERTIFICATION OR REGISTRATION SUSPENDED UNDER SUBSECTION A OF THIS SECTION SHALL BE REVOKED WITHOUT A HEARING AFTER ONE YEAR OF SUSPENSION. REVOCATIONS UNDER THIS SUBSECTION ARE NOT SUBJECT TO SECTION 32-2304, SUBSECTION A, PARAGRAPH 9.

D. THE OFFICE SHALL NOT RENEW A LICENSE, CERTIFICATION OR REGISTRATION OR BROADEN A CERTIFICATION IF THE LICENSEE IS SUSPENDED UNDER SUBSECTION A OF THIS SECTION.

§ 32-2335. Business license; principals

A. WHEN A BUSINESS LICENSEE CURRENTLY HAS ITS LICENSE SUSPENDED OR OWES CIVIL PENALTIES TO THE OFFICE OR A BUSINESS HAS HAD ITS BUSINESS LICENSE REVOKED WITHIN THE LAST FIVE YEARS, THE OFFICE SHALL DENY AN APPLICATION FOR A NEW BUSINESS LICENSE FROM A PERSON IF A PRINCIPAL OF THE APPLICANT WAS ALSO A PRINCIPAL OF THE BUSINESS DISCIPLINED BY THE OFFICE AS DESCRIBED IN THIS SUBSECTION.

B. FOR THE PURPOSES OF THIS SECTION, PRINCIPAL MEANS A PERSON WHO OWNS AT LEAST A TEN PERCENT INTEREST IN A BUSINESS. PRINCIPAL INCLUDES AN OWNER THAT IS ITSELF A BUSINESS AS WELL AS OWNERS OF A PRINCIPAL.

§ ~~32-2327~~. 32-2336. Injunctive relief

In addition to all other remedies, the ~~acting~~ director, either through the attorney general or the county attorney, may apply to the appropriate court for an order enjoining any act or practice that appears to constitute a violation of this chapter or rules adopted pursuant to this chapter. On a proper showing, a temporary restraining order, a preliminary injunction or a permanent injunction shall be granted without bond.

§ ~~32-2329~~. Summary suspension

REPEAL

Session Laws**Sec. X1. Exemption from rule making**

The Arizona Department of Agriculture and the Office of Pest Management are exempt from the rule making requirements of title 41, chapter 6, Arizona Revised Statutes, for the purpose of implementing this act until July 1, 2014.

Sec. X2. Repeal

A. Laws 2008, chapter 309, section 24 is repealed.

B. Laws 2011, chapter 20, section 4, subsection (A) is repealed, and sections 32-2301 and 32-2302, Arizona Revised Statutes, shall not be repealed as provided in that subsection.

C. Laws 2011, chapter 20, section 5 is repealed.

Sec. X3. Laws 2011, chapter 20, section 7 is amended to read:

A. As provided by sections ~~32-2301 and~~ 32-2302 ~~and 32-2303~~, Arizona Revised Statutes, as amended by this act, the director of the Arizona department of agriculture succeeds to the administrative supervision of the office of pest management, ~~including supervision of the pest management advisory committee established by Laws 2008, chapter 309, section 24, for the period from the effective date of this act through December 31, 2013.~~

~~B. On the effective date of this act the office of pest management shall vacate its current office facilities and relocate to quarters furnished by the Arizona department of agriculture. Notwithstanding section 41-791.02, Arizona Revised Statutes, the office of pest management is relieved of any further obligation for payment of rent to the department of administration on the vacated premises.~~

~~C. The directors of the Arizona department of agriculture and the department of administration may enter into any necessary memoranda of understanding and other agreements necessary to accomplish the relocation, transfer and succession of administration provided by this act.~~

Sec. X4. Staggering of committee member terms

For the initial membership of the Pest Management Advisory Committee established under section 32-2306, Arizona Revised Statutes:

1. One industry member shall have a term of one year.
2. One industry and the political subdivision member shall have a term of two years.
3. One industry and the public member shall have a term of three years.